# FEDERAL REGISTER

VOLUME 24 NUMBER 81

*Washington, Saturday, April 25, 1959*


## Title 3—THE PRESIDENT

### Proclamation 3281

### NATIONAL FARM SAFETY WEEK, 1959

**By the President of the United States of America**

**A Proclamation**

WHEREAS the continued well-being and economic progress of our rural families are vital to the strength of the Nation; and

WHEREAS accidents each year bring suffering and hardship to many rural inhabitants of our land and constitute a serious problem throughout the national community; and

WHEREAS programs of safety education and information have demonstrated their effectiveness in preventing accidents in the fields, in the homes, and on the highways and have greatly reduced the needless loss of life and property:

NOW, THEREFORE, I, DWIGHT D. EISENHOWER, President of the United States of America, do hereby call upon the people of the Nation to observe the week beginning July 19, 1959, as National Farm Safety Week, and I urge farm families and persons allied with agriculture to join their efforts in a continuing campaign to prevent accidents. I also request all persons and organizations concerned for the welfare of farm people to support and participate in National Farm Safety Week.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Seal of the United States of America to be affixed.

DONE at the City of Washington this seventeenth day of April in the year of our Lord nineteen hundred and [SEAL] fifty-nine, and of the Independence of the United States of America the one hundred and eighty-third.

DWIGHT D. EISENHOWER

By the President:

ROBERT MURPHY,
*Acting Secretary of State.*

[F.R. Doc. 59-3558; Filed, Apr. 23, 1959; 1:35 p.m.]

### Proclamation 3282

### LOYALTY DAY, 1959

**By the President of the United States of America**

**A Proclamation**

WHEREAS loyalty to the United States of America, its democratic traditions and institutions, and the liberties embodied in our Constitution is essential to the preservation of our freedoms in a world threatened by totalitarianism; and

WHEREAS it is fitting and proper that we reaffirm by special observance our loyalty to our country and our gratitude for the precious heritage of freedom and liberty under law; and

WHEREAS the Congress, by a joint resolution of July 18, 1958 (72 Stat. 369), has designated May 1 of each year as Loyalty Day, and has requested the President to issue annually a proclamation calling upon the people of the United States to observe that day with appropriate ceremonies:

NOW, THEREFORE, I, DWIGHT D. EISENHOWER, President of the United States of America, do hereby call upon the people of the United States, and upon all patriotic, civic, educational, and other interested organizations, to observe Friday, May 1, 1959, as Loyalty Day, in schools and other suitable places, with appropriate ceremonies in which all of our people may join in the reaffirmation of their loyalty to the United States and the renewal of their dedication to the concepts of the freedom and dignity of man.

I also direct the appropriate officials of the Government to display the flag of the United States on all Government buildings on that day.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Seal of the United States of America to be affixed.

DONE at the City of Washington this eighteenth day of April in the year of our Lord nineteen hundred and [SEAL] fifty-nine, and of the Independence of the United States of America the one hundred and eighty-third.

DWIGHT D. EISENHOWER

By the President:

ROBERT MURPHY,
*Acting Secretary of State.*

[F.R. Doc. 59-3557; Filed, Apr. 23, 1959; 1:35 p.m.]

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### THE PRESIDENT



### EXECUTIVE AGENCIES

FEDERAL REGISTER

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## CODIFICATION GUIDE

A numerical list of the parts of the Code of Federal Regulations affected by documents published in this issue. Proposed rules, as opposed to final actions, are identified as such.

A Cumulative Codification Guide covering the current month appears at the end of each issue beginning with the second issue of the month.

## CODIFICATION GUIDE—Con.



## Proclamation 3283

### UNITED NATIONS DAY, 1959

### By the President of the United States of America

### A Proclamation

WHEREAS the United Nations is identified with the profound hope of the world's peoples that they might live together in peace, resolving their differences in the spirit of conciliation and equity, and freely pursuing their just aspirations for material and social progress; and

WHEREAS the United Nations and its Specialized Agencies have responded to that hope by achieving peaceful solutions to matters of international dispute, by promoting the rule of world law, and by effectively joining in man's struggle against hunger, poverty, ignorance, and fear; and

WHEREAS the people of the United States of America are steadfastly working for the eventual fulfillment of the goals of the United Nations as expressed in its Charter; and

WHEREAS the General Assembly of the United Nations has resolved that October twenty-fourth, the anniversary of the coming into force of the United Nations Charter, should be dedicated each year to making known the purposes, principles, and accomplishments of the United Nations:

NOW, THEREFORE, I, DWIGHT D. EISENHOWER, President of the United States of America, do hereby urge the citizens of this Nation to observe Saturday, October 24, 1959, as United Nations Day by means of community programs which will demonstrate their faith in the United Nations and contribute to a better understanding of its aims, problems, and achievements.

I also call upon the officials of the Federal and State Governments and upon local officials to encourage citizen groups and agencies of the press, radio, television, and motion pictures to engage in appropriate observance of United Nations Day throughout the land in cooperation with the United States Committee for the United Nations.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Seal of the United States of America to be affixed.

DONE at the City of Washington this eighteenth day of April in the year of our Lord nineteen hundred and [SEAL] fifty-nine and of the Independence of the United States of America the one hundred and eighty-third.

DWIGHT D. EISENHOWER

By the President:

ROBERT MURPHY,
*Acting Secretary of State.*

[F.R. Doc. 59-3559; Filed, Apr. 23, 1959; 1:35 p.m.]

## Proclamation 3284

### CHILD HEALTH DAY, 1959

### By the President of the United States of America

### A Proclamation

WHEREAS the future of our Nation depends in great measure on the healthy growth and development of our children; and

WHEREAS the progress of science has given us new opportunities to fulfill our responsibilities as parents and adult citizens concerned for the well-being of the coming generation; and

WHEREAS the Congress, by a joint resolution of May 18, 1928 (45 Stat. 617), has authorized and requested the President of the United States to issue annually a proclamation setting apart May 1 as Child Health Day; and

WHEREAS Child Health Day is also a fitting time for the people of the United States to observe a Universal Children's Day, as recommended by a resolution of the United Nations General Assembly, and to salute the work which the United Nations, through its specialized agencies, and the United Nations Children's Fund, are doing to build better health for the children of mankind:

NOW, THEREFORE, I, DWIGHT D. EISENHOWER, President of the United States of America, do hereby designate Friday, the first day of May 1959, as Child Health Day, and I invite all citizens to reassess on that day the ways to provide full opportunities for the healthy growth and development of our young people.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Seal of the United States of America to be affixed.

DONE at the City of Washington this twentieth day of April in the year of our Lord nineteen hundred and [SEAL] fifty-nine, and of the Independence of the United States of America the one hundred and eighty-third.

DWIGHT D. EISENHOWER

By the President:

CHRISTIAN A. HERTER,
*Acting Secretary of State.*

[F.R. Doc. 59-3556; Filed, Apr. 23, 1959; 1:35 p.m.]

## Proclamation 3285

### FURTHER AMENDMENT OF PROCLAMATION NO. 3160,[1] RELATING TO CERTAIN WOOLEN TEXTILES

### By the President of the United States of America

### A Proclamation

1. WHEREAS by Proclamation No. 3160 of September 28, 1956 (71 Stat. C12), as amended by Proclamation No. 3225 of March 7, 1958 (3 CFR, 1958 Supp., p. 19), the President announced the invocation by the Government of the United States of America of the reservation contained in the note to item 1108 in Part I of Schedule XX annexed to the General Agreement on Tariffs and Trade (61 Stat. (pt. 5) All, A1274), and proclaimed that the ad-valorem part of the rate applicable to fabrics described in item 1108 or 1109(a) in Part I of Schedule XX to the General Agreement on Tariffs and Trade (61 Stat. (pt. 5) A1274), or in item 1109(a) in Part I of Schedule XX to the Torquay Protocol to the General Agreement on Tariffs and Trade (3 UST (pt. 1) 615, 1186), entered, or withdrawn from warehouse, for consumption in excess of certain quantities would be either 30 per centum or 45 per centum, depending on the classification of such fabrics; and

2. WHEREAS I find that as of January 1, 1959, it will be appropriate to carry out the General Agreement on Tariffs and Trade that the ad-valorem part of the rate be 30 per centum ad valorem in the case of any of the fabrics described in item 1108 or 1109(a) in Part I of Schedule XX to the General Agreement on Tariffs and Trade, or in item 1109(a) in Part I of Schedule XX to the Torquay Protocol to the General Agreement on Tariffs and Trade, which are described in subparagraph (a) of the seventh recital of the proclamation of September 28, 1956, as amended by the proclamation of March 7, 1958, and as further amended by this proclamation:

NOW, THEREFORE, I, DWIGHT D. EISENHOWER, President of the United States of America, acting under and by virtue of the authority vested in me by the Constitution and the statutes, including section 350(a) of the Tariff Act

[1] 21 F.R. 7593; 3 CFR, 1956 Supp., p. 44.

of 1930, as amended by section 3(a) of the Trade Agreements Extension Act of 1955 (69 Stat. 162; 19 U.S.C. 1351(a), Sup. V), and by section 3(a) of the Trade Agreements Extension Act of 1958 (72 Stat. 673; Public Law 85-686, sec. 3(a)), do hereby proclaim that the seventh recital of the proclamation of September 28, 1956, as amended by the proclamation of March 7, 1958, is hereby further amended to read as follows:

"7. WHEREAS I find that following December 31, 1958, and until otherwise proclaimed by the President, it will be appropriate to carry out the trade agreements specified in the first and third recitals of this proclamation that the ad-valorem part of the rate be as set forth below in the case of the fabrics described in item 1108 or 1109(a) in Part I of Schedule XX of the General Agreement on Tariffs and Trade set forth in the second recital hereof, or in item 1109(a) in Part I of Schedule XX to the Torquay Protocol set forth in the fourth recital hereof (except in each case articles dutiable at rates applicable to such fabrics by virtue of any provision of the Tariff Act of 1930, as amended, other than paragraph 1108 or 1109(a)), entered, or withdrawn from warehouse, for consumption in any calendar year after that total aggregate quantity by weight of such fabrics which shall have been notified by the President to the Secretary of the Treasury, and published in the FEDERAL REGISTER (which quantity the President shall have found to be not less than 5 per centum of the average annual production in the United States during the three immediately preceding calendar years of fabrics similar to such fabrics), has been so entered or withdrawn during such calendar year:

"(a) 30 per centum ad valorem in the case of any such fabrics which are:

"(i) hand-woven fabrics with a loom width of less than 30 inches,

"(ii) serges, weighing not over 6 ounces per square yard, and nuns' veilings and other woven fabrics, weighing not over 4 ounces per square yard; all of the foregoing described in this clause (ii) wholly or in chief value of wool of the sheep, valued at over $4 per pound, in solid colors, imported to be used in the manufacture of apparel for members of religious orders, or

"(iii) woven fabrics not described in either clause (i) or clause (ii) of this subparagraph wholly or in chief value of wool of the sheep or hair of the Angora goat, weighing over 6 ounces per square yard and valued at over $6.50 per pound, or weighing over 4 ounces, but not over 6 ounces, per square yard and valued at over $7 per pound, entered, or withdrawn from warehouse, for consumption in any calendar year after such aggregate quantity notified by the President to the Secretary of the Treasury has been so entered or withdrawn but before there shall have been so entered or withdrawn 350,000 pounds of woven fabrics not described in either clause (i) or clause (ii) of this subparagraph wholly or in chief value of wool of the sheep or hair of the Angora goat, weighing over 6 ounces per square yard and having a purchase price determined from the invoice of over $6.50 per pound, or weighing over 4 ounces, but not over 6 ounces, per square yard and having a purchase price determined from the invoice of over $7 per pound (such purchase price to be determined by the Collector of Customs on the basis of the aggregate price, including all expenses incident to placing the merchandise in condition, packed ready for shipment to the United States, but excluding transportation, insurance, duty, and other charges incident to bringing the merchandise from the place of shipment in the country of exportation to the place of delivery in the United States), and

"(b) 45 per centum ad valorem in the case of any other of such fabrics; and".

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Seal of the United States of America to be affixed.

DONE at the City of Washington this twenty-first day of April in the year of our Lord nineteen hundred and [SEAL] fifty-nine and of the Independence of the United States of America the one hundred and eighty-third.

DWIGHT D. EISENHOWER

By the President:

CHRISTIAN A. HERTER,
*Acting Secretary of State.*

[F.R. Doc. 59-3573; Filed, Apr. 23, 1959; 4:38 p.m.]

## Letter of April 21, 1959

### [PURSUANT TO PROCLAMATION FURTHER AMENDING PROCLAMATION NO. 3160, RELATING TO CERTAIN WOOLEN TEXTILES]

THE WHITE HOUSE
*Washington, April 21, 1959.*

DEAR MR. SECRETARY:

Proclamation No. 3160 of September 28, 1956, as amended by Proclamation No. 3225 of March 7, 1958, and by the proclamation of April 21, 1959,[1] provides for the increase of the ad valorem part of the duty in the case of any of the fabrics described in item 1108 or item 1109(a) in Part I of Schedule XX to the General Agreement on Tariffs and Trade (Geneva—1947) or in item 1109(a) in Part I of that Schedule (Torquay—1951) entered, or withdrawn from warehouse, for consumption in any calendar year following December 31, 1958, in excess of a quantity to be notified by the President to the Secretary of the Treasury.

Pursuant to paragraph 1 of that proclamation, as amended, I hereby notify you that for the calendar year 1959 the quantity of such fabrics on imports in excess of which the ad valorem part of the rate will be increased as provided for in the seventh recital of that proclamation, as amended, shall be 13,500,000 pounds.

On the basis of presently available information, I find this quantity to be not less than five per centum of the average annual production in the United States during the three immediately preceding calendar years of fabrics similar to such fabrics. Although it is believed that any future adjustments in statistics will not be such as to alter this finding, in the event that they do, I shall notify you as to the revised quantity figure.

Sincerely,

DWIGHT D. EISENHOWER

THE HONORABLE ROBERT B. ANDERSON,
*The Secretary of the Treasury,*
*Washington, D.C.*

[F.R. Doc. 59-3574; Filed, Apr. 23, 1959; 4:38 p.m.]

# RULES AND REGULATIONS

## Title 16—COMMERCIAL PRACTICES

### Chapter I—Federal Trade Commission

[Docket 7288]

### PART 13—DIGEST OF CEASE AND DESIST ORDERS

### Day's Tailor-D Clothing, Inc.

Subpart—*Discriminating in price under section 2, Clayton Act, as amended*—Payment for services or facilities for processing or sale under 2(d): § 13.824 *Advertising expenses;* [*Discriminating in price under section 2, Clayton Act, as amended*]—Furnishing services or facilities for processing, handling, etc., under 2(e): § 13.830 *Furnishing services or facilities.*

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 2, 38 Stat. 730, as amended; 15 U.S.C. 13) [Cease and desist order, Day's Tailor-D Clothing, Inc., Tacoma, Washington, Docket 7288, March 27, 1959]

This proceeding was heard by a hearing examiner on the complaint of the Commission charging a distributor of men's and boys' sportswear and work clothes in Tacoma, Wash., with discriminating among its retailer customers by paying promotional allowances for cooperative advertising and furnishing storage and display racks to certain favored customers but not to their competitors and not to all competing customers on proportionally equal terms.

After acceptance of an agreement containing consent order, the hearing examiner made his initial decision and order to cease and desist which became on March 27 the decision of the Commission.

[1] Proclamation 3285, *supra.*

The order to cease and desist is as follows:

*It is ordered,* That respondent Day's Tailor-D Clothing, Inc., a corporation, and its officers; and respondent's employees, agents and representatives, directly or through any corporate or other device, in, or in connection with, the sale of work clothes, sportswear, or any similar products in commerce, as "commerce" is defined in the Clayton Act, as amended, do forthwith cease and desist from:

1. Making, or contracting to make, to or for the benefit of any customer, any payment of anything of value as compensation or in consideration for any advertising or any service or facilities furnished by or through such customer, in connection with the handling, offering for resale, or resale of products sold to him by respondent, or its successors and assigns, unless such payment is affirmatively offered or otherwise made available on proportionally equal terms to all other customers competing in the distribution or resale of such products.

2. Contracting to furnish, or furnishing, or contributing to the furnishing of any services or facilities connected with the handling, sale, or offering for sale of any of respondent's said products to any purchaser from respondent, upon terms not accorded to all competing purchasers on proportionally equal terms.

By "Decision of the Commission", etc., report of compliance was required as follows:

*It is ordered,* That respondent Day's Tailor-D Clothing, Inc., a corporation, shall, within sixty (60) days after service upon it of this order, file with the Commission a report in writing, setting forth in detail the manner and form in which it has complied with the order to cease and desist.

Issued: March 27, 1959.

By the Commission.

[SEAL] ROBERT M. PARRISH, *Secretary.*

[F.R. Doc. 59-3506; Filed, Apr. 24, 1959; 8:47 a.m.]

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[Docket 7290]

## PART 13—DIGEST OF CEASE AND DESIST ORDERS

### Sun Valley Air College, Inc., et al.

Subpart—*Advertising falsely or misleadingly:* § 13.15 *Business status, advantages, or connections:* Connections or arrangements with others; individual or private business as educational, religious or research institution; personnel or staff; qualifications and abilities; § 13.115 *Jobs and employment service;* § 13.125 *Limited offers or supply;* § 13.143 *Opportunities;* § 13.240 *Special or limited offers.* Subpart—*Using misleading name*—Vendor: § 13.2410 *Individual or private business being educational, religious or research institution or organization;* § 13.2455 *Qualifications.*

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45) [Cease and desist order, Sun Valley Air College, Inc., et al., Boise, Idaho, Docket 7290, Mar. 28, 1959]

*In the Matter of Sun Valley Air College, Inc., a Corporation; and Daniel G. Thompson, Eleanor M. Thompson, and Anna Marie Tabor, Individually and as Officers of the Aforesaid Corporation*

This proceeding was heard by a hearing examiner on the complaint of the Commission charging a "school" in Boise, Idaho, with selling its instruction courses in so-called specialized training for commercial airline positions through use of deceptive employment offers, some in the Help Wanted columns of newspapers, and misrepresentation as to classroom, dormitory, and recreational facilities at Sun Valley, connections with commercial airlines, etc.; and with using the word "college" in its trade name and describing its salesmen as "Registrars".

Based on an agreement containing consent order, the hearing examiner made his initial decision and order to cease and desist which became on March 28 the decision of the Commission.

The order to cease and desist is as follows:

*It is ordered,* That respondents Sun Valley Air College, Inc., a corporation, and its officers, and Daniel G. Thompson, Eleanor M. Thompson, and Anna Marie Tabor, individually and as officers of the said corporation, and respondents' agents, representatives and employees, directly or through any corporate or other device, in connection with the offering for sale, sale or distribution in commerce, as "commerce" is defined in the Federal Trade Commission Act, of courses of study or instruction, do forthwith cease and desist from:

1. Representing, directly or by implication:

(a) That employment is being offered when, in fact, the purpose is to obtain purchasers of a course of study or instruction;

(b) That specific positions are presently available, or will be available, to those who complete such course;

(c) That respondents have connections with commercial airlines;

(d) That said course of study is sold only to selected persons;

(e) That respondents' school is adequately staffed or equipped to teach the specified course of study;

(f) That such course of study is specialized;

(g) That classroom space is limited because of numerous applications for admission; or is limited for any other reason that is not in accordance with the fact;

(h) That the school maintains classroom or dormitory facilities at Sun Valley or that the recreational facilities of Sun Valley are available to students without cost;

(i) That a planned program of social activities is a part of the residence training session;

(j) That a placement service is maintained for the benefit of graduates;

(k) That a professional course in modeling and self-improvement is a part of the residence curriculum.

2. Using the word "college," or any other word of similar meaning, either alone or in conjunction with other words, as a part of their corporate name, or representing in any manner that the corporate respondent constitutes a college or school of higher learning.

3. Using the word "Registrars" in designating or referring to respondents' salesmen.

By "Decision of the Commission", etc., report of compliance was required as follows:

*It is ordered,* That the above-named respondents shall, within sixty (60) days after service upon them of this order, file with the Commission a report in writing, setting forth in detail the manner and form in which they have complied with the order to cease and desist.

Issued: March 27, 1959.

By the Commission.

[SEAL] ROBERT M. PARRISH, *Secretary.*

[F.R. Doc. 59-3507; Filed, Apr. 24, 1959; 8:47 a.m.]

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[Docket 6890]

## PART 13—DIGEST OF CEASE AND DESIST ORDERS

### Allbright's et al.

Subpart—*Discriminating in price under section 2, Clayton Act, as amended*—Knowingly inducing or receiving discriminating price under 2(f): § 13.850 *Inducing and receiving discriminations.*

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies, sec. 2, 38 Stat. 730, as amended, 15 U.S.C. 13). [Cease and desist orders, Allbright's (Riverside, Calif.) et al., Docket 6890, Mar. 27, 1959]

*In the Matter of Allbright's, a Corporation; Jack R. Doolittle, an Individual, Doing Business as Automotive Industrial Distributing Co.; Auto Parts & Machine Company, a Corporation; Clark County Wholesale Mercantile Co., Inc., a Corporation; Curtis & Christensen, Inc., a Corporation; Donald L. Diedrich, an Individual, Doing Business as L. N. Diedrich, Inc.; Eckdahl Auto Parts Co., a Corporation; Theodore Terzenbach, an Individual, Doing Business as Economy Auto Parts & Machine Co.; Donald P. Godber, R. S. Hollett and M. K. Godber, Co-Partners Doing Business as G & H Auto Parts; James K. Gardner, an Individual, Doing Business as Gardner Automotive Parts; B. H. Dickey, an Individual, Doing Business as General Auto Parts; George W. Graveline, an Individual, Doing Business as Graveline Auto Parts; Green Motor Parts, a Corporation; W. E. Hardy, an Individual, Doing Business as Hardy Auto Parts; R. B. Huston, George Huston and K. A. Greer, Co-Partners Doing Business as Hollister Auto Parts; W. W. Kerrigan, Jr., an Individual Doing*

*Business as Kerrigan Auto Parts; H. C. Jepson, an Individual, Doing Business as Los Gatos Auto Supply; Ernest R. Blome, James G. Blome, Richard Peterson, Floyd Beutler, Denis Panis and Allen Sticker, Co-Partners Doing Business as Mel's Auto Supply; Carl Pate and William Lehnhoff, Co-Partners Doing Business as Montgomery Auto Parts; National Parts Co., a Corporation; H. M. Parker & Son, a Corporation; John M. Moss, Dudley Laughton, Roland Imwalle and Lucille Leeper, Co-Partners Doing Business as Peninsula Auto Parts Co.; Pioneer Mercantile Co., a Corporation; Pomona Motor Parts, a Corporation; Psenner-Pauff, Inc., a Corporation; Santa Cruz Auto Parts, Inc., a Corporation; Standard Auto Parts, Inc., a Corporation; Stedman Auto Parts, Inc., a Corporation; Valley Auto Supply Co., a Corporation; Valley Auto Supply of San Bernardino, a Corporation; Frank P. Verbeck, an Individual, Doing Business as Verbeck's Automotive Sales; Walter's Auto Parts, a Corporation; James Sheerin, William Pointer and Raymond Nelson, Co-Partners Doing Business as West Covina Auto Supply; Southwest Automotive Distributors, Inc., a Corporation; and L. E. Williams, D. S. Allbright, C. H. Briggs, R. J. Hoefferle, T. S. Huddleston, Rodney B. Terzenbach, E. V. Stretz, F. Lorin Ronnow, E. W. Arnold, George M. Roman, Stanley C. Brower, Fred J. Curtis, Mable Curtis, H. Kelly, Ralph Hubert, B. T. Eckdahl, A. D. Shaw, Fred A. Guffin, E. E. Green, T. E. Hermanson, Joseph R. Mulch, Henry Mezori, Emeline Dawson, Joseph Ochoa, Norman B. Parker, A. W. Owen, A. J. Filar, George Lipp, Frank G. Schamblin, L. A. Schamblin, A. E. Randour, Joseph K. Wilkinson, Helen Bates, H. E. Psenner, Carolyn Psenner, A. N. Pauff, E. J. Ayer, Paul Schaeffer, Charles Quinn, Frank D. Muzio, P. E. Stedman, R. E. Stedman, W. A. Tondro, Ella Belle Tondro, Lyman W. Tondro, John Wilson, Paul Clammer, Arthur Lindholm, Joseph L. Walter, R. W. Cottle, R. Connell, Allen Sheerin, Individuals*

This proceeding was heard by a hearing examiner on the complaint of the Commission charging 33 jobbers of automotive replacement parts and supplies and their corporate buying agent with using their combined bargaining power to induce discounts from sellers not made available to their competitors and to replace non-cooperating suppliers with others.

After acceptance of two agreements containing consent orders, the hearing examiner made his initial decisions and two identical orders to cease and desist which became on March 27 the decisions of the Commission.

The identical orders required all respondents in the two initial decisions, except those as to whom said proceeding was dismissed, in connection with the offering to purchase or purchase of any automotive products or supplies in commerce, as "commerce" is defined in the Clayton Act, to forthwith cease and desist from:

Knowingly inducing or knowingly receiving or accepting any discrimination in the price of such products and supplies, by directly or indirectly inducing, receiving, or accepting from any seller a net price known by respondents to be below the net price at which said products and supplies of like grade and quality are being sold by such seller to other customers, where the seller is competing with any other seller for respondents' business, or where respondents are competing with other customers of the seller.

For the purpose of determining "net price" under the terms of this order, there shall be taken into account discounts, rebates, allowances, deductions or other terms and conditions of sale by which net prices are effected.

*It is further ordered,* That the complaint in this proceeding be, and it is hereby, dismissed as to the individual respondents Richard Peterson, Dennis Panis, Allen Sticker, William Pointer, Raymond Nelson, E. V. Stretz, Henry Mezori, Joseph Ochoa, and George Lipp.

By "Final Order", report of compliance was required as follows:

*It is further ordered,* That all respondents herein not specifically dismissed in said initial decisions shall, within sixty (60) days after service upon them of this order, file with the Commission a report, in writing, setting forth in detail the manner and form in which they have complied with the orders to cease and desist contained in the aforesaid initial decisions.

Issued: March 27, 1959.

By the Commission.

[SEAL] ROBERT M. PARRISH, *Secretary.*

[F.R. Doc. 59-3508; Filed, Apr. 24, 1959; 8:47 a.m.]

# Title 14—CIVIL AVIATION

## Chapter II—Federal Aviation Agency

[Amdt. 16]

## PART 507—AIRWORTHINESS DIRECTIVES

### Miscellaneous Amendments

This amendment to Part 507 contains the Airworthiness Directives amended or issued during February 1959. Individual notice of the Airworthiness Directives contained herein has been given to operators and other interested persons who are subscribers to a Federal Aviation Agency mailing service.

In the interest of safety, compliance with the notice, procedures and effective date provisions of section 4 of the Administrative Procedure Act is impracticable and contrary to the public interest, and therefore is not required.

Section 507.10(a) is amended as follows:

1. 58-17-2 Curtiss-Wright C-46 series aircraft as it appeared in 23 F.R. 7483 is amended by adding the following paragraph: "To facilitate inspection, the horizontal stabilizer may be modified in accordance with L. B. Smith Aircraft Corporation Drawing No. 5.040.02, or approved equivalent."

2. 59-1-2 De Havilland Dove Model 104 aircraft as it appeared in 24 F.R. 2199 is amended by adding the following paragraph: "On aircraft Pre-Modification 231 standard, Dove Modification 187—repositioning the undercarriage warning lamp and micro switches—and Dove Modification 308—improving the operation of the main undercarriage mechanical position indicator—must be embodied at the same time as Modification 868."

3. The following new airworthiness directives are added:

59-3-1 FAIRCHILD. Applies to All Fairchild F-27 Aircraft.

Compliance required as indicated.

Some Fairchild F-27 deicer regulating valves, Bendix P/N 38E09-3C and 38E09-3D have corroded and seized in the closed position causing the pneumatic deicing system to fail in flight. Pending completion of investigation for a permanent fix, a functional performance check of this system must be performed prior to each flight into known or suspected icing conditions to assure that the pneumatic deicing system is performing satisfactorily.

(This supersedes FAA telegraphic instructions of January 23, 1959.)

59-3-2 LOCKHEED. Applies to All Model 049, 149, 649, 649A, 749, 749A, And 1049-54 Aircraft Except Those Already Incorporating The Improved Main Landing Gear Downlock Guide Assembly Per Lockheed Service Bulletin 49/SB-707 And 1049/SB-2021.

Compliance required as indicated.

The following inspections and replacement have been established as a result of fatigue failures in the fillet radius of the main landing gear downlock guide stub, P/N 270201-3.

Unless already accomplished, within the next 150 flight hours inspect all Model 049, 149, 649, 649A, 749, 749A, and 1049-54 aircraft for fatigue cracks in the main landing gear downlock guide stub fillet radius, P/N 270201-3, by magnetic inspection.

If cracks are found replace the entire main landing gear guide assembly, P/N 270197, with downlock guide assembly P/N 318332. If P/N 318332 is not available P/N 270201-3 may be replaced by an identical part pending final replacement of the guide assembly as indicated below.

If no cracks are found the part must be reinspected in the same manner at intervals not to exceed 600 flight hours. This reinspection procedure may be terminated upon replacement by P/N 318332.

Unless sooner accomplished, P/N 270197 must be replaced by P/N 318332 at the first block overhaul after July 1, 1959, or in any case no later than July 1, 1960. (Lockheed Service Bulletins 49/SB-707 and 1049/SB-2021 describe the intsallation of P/N 318332.)

(This supersedes FAA telegraphic instructions of January 30, 1959.)

59-4-1 AERO DESIGN. Applies to Models 500, 560, 560A, 560E, 680, 680E And 720, Serial Numbers 151 Through 710 Inclusive.

Compliance required as indicated.

Rivets have been inadvertently omitted, at the factory, from the rear spars of the vertical and horizontal stabilizers on some of the aircraft listed above. The rivets involved are the four web splice rivets on the vertical stabilizer rear spar approximately 4½ inches below the center hinge bracket, and either one or two of the normal three web splice rivets on each horizontal stabilizer rear spar just inboard of the center hinge bracket as shown in Figs. 1 and 2 respectively.

NOTE: Figure 2 shows four rivets in the reworked web splice. In the normal web splice, which does not require rework, there is one rivet on the centerline and one each through the top and bottom spar cap.

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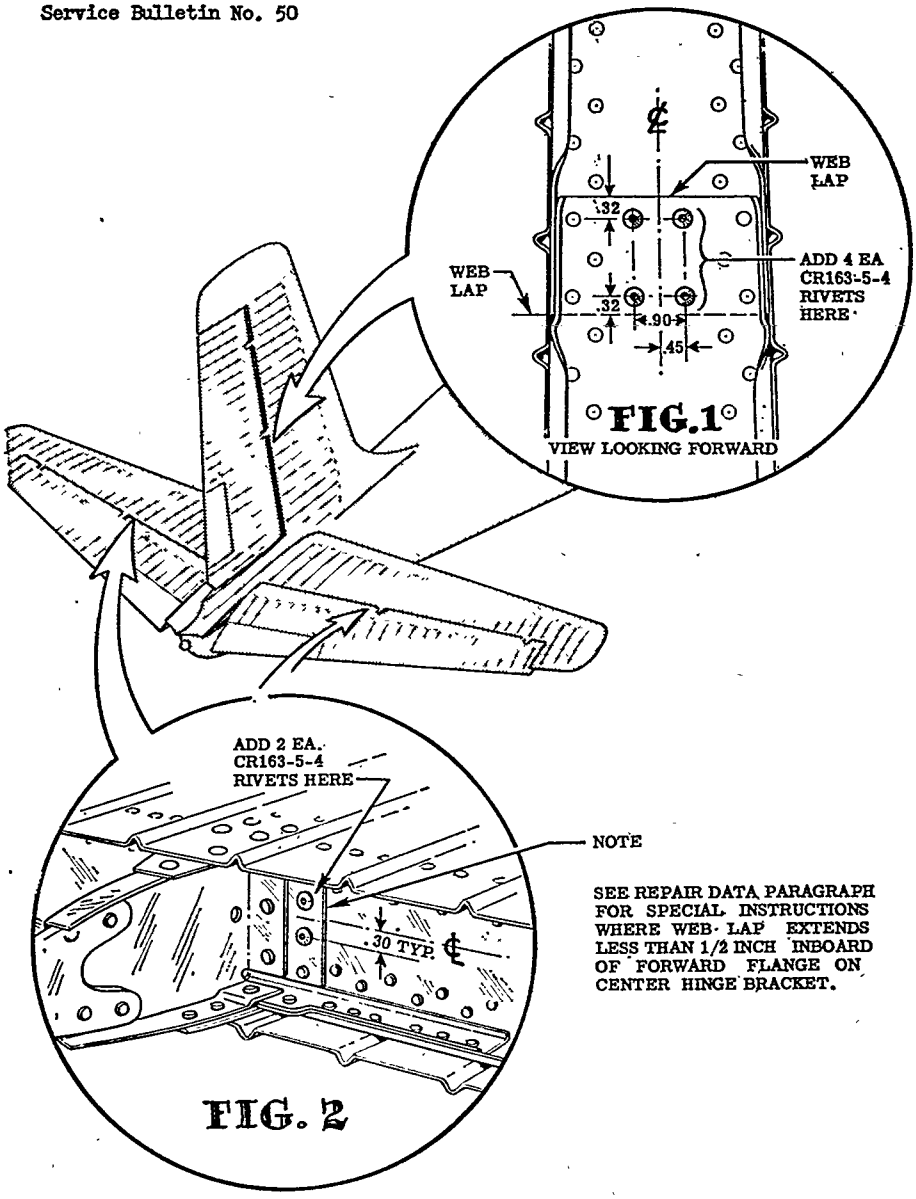


FIG. 1
VIEW LOOKING FORWARD

FIG. 2

An inspection should be made immediately to determine if any of the above rivets are missing. If any or all of these rivets are missing the following rework should be accomplished as soon as possible but not later than March 31, 1959.

(1) *Vertical Stabilizer—Rear Spar.* In the locations shown in Figure 1 drill four holes using a No. 20 drill bit and install four cherry rivets, P/N CR163-5-4.

(2) *Horizontal Stabilizer—Rear Spar.* In the locations shown in Figure 2 install two CR163-5-4 rivets on each stabilizer. In the event the spar web lap extends less than ½ inch inboard of the forward flange on the center hinge bracket (see fig. 2) the Service Department, Aero Design and Engineering Co., Bethany, Okla., should be contacted for instructions for installation of a spar web doubler.

(Aero Design and Engineering Co. Service Bulletin No. 50, dated December 17, 1958, also covers this subject.)

59-4-2 CONVAIR. Applies to All Convair Model 240/340/440 Series Aircraft Through Serial Number 485.

Compliance required as indicated.

Several instances have been reported wherein the pilot's direct-vision window has swung inward beyond the normal stop and has interfered with the movement of the control column. One such instance resulted in a crash landing and a fire which destroyed the aircraft.

(1) Within the next 50 hours of operation inspect the DV window and ascertain that the stop is secure. Also install a placard in the vicinity of the DV window cautioning the pilots against deliberately opening the window past the stop as an interim measure pending compliance with item (2).

(2) Not later than September 1, 1959, the following must be accomplished to provide a positive stop for restricting the amount of travel of the DV window to eliminate possible interference between the window and the control column. For model 240 aircraft install a secondary DV window stop such as the safety chain described in Convair Service Engineering Report No. 26/440-28 dated January 16, 1959, or equivalent. For models 340 and 440 aircraft, install either the redesigned positive stop P/N 340-3110303-65 and -66 described in Convair Service Newsletter No. 411 or the secondary DV window stop safety chain described in Convair Service Engineering Report No. 26/440-28 dated January 16, 1959, or equivalent.

59-4-3 NAVION. Applies to All Navion Serial Numbers NAV-4-2 and Above.

Compliance required as indicated.

Several cases of failure or cracks in the main landing gear retraction link have been found. The previous fix (AD 52-23-2) for this same trouble is inadequate and the following inspection and corrective action is necessary.

Inspect by dye penetrant method or equivalent as soon as possible, but not later than March 31, 1959, at 100-hour intervals thereafter, and after any unusually hard landing, the main landing gear retract link assembly (P/N 143-33165-10) on all affected serial numbers for cracks in or near end fitting welds. Replace all defective parts with later type -20 assembly having the longer lap-welded center section. Upon installation of revised assembly (P/N 143-33165-20) this inspection is no longer required.

(Navion Field Service Bulletin No. 34 dated December 17, 1958, covers this same subject.)

This supersedes AD 52-23-2.

(Sec. 313(a), 72 Stat. 752; 49 U.S.C. 1354(a). Interpret or apply secs. 601, 603, 72 Stat. 775, 776; 49 U.S.C. 1421, 1423)

Issued in Washington, D.C., on April 17, 1959.

E. R. QUESADA,
*Administrator.*

[F.R. Doc. 59-3400; Filed, Apr. 24, 1959; 8:45 a.m.]

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[Amdt. 11]

## PART 600—DESIGNATION OF CIVIL AIRWAYS

### Alterations

These civil airway alterations largely result from necessary changes in navigational aids, such as: commissioning, decommissioning, realignment, etc., which are required on the date indicated in order to promote safety. This action has been coordinated with various civil aviation organizations, the Army, the Navy and the Air Force. It will become effective on June 4, 1959. For these reasons, the notice, procedure and effective date requirements of section 4 of the Administrative Procedure Act, in effect, have been complied with. However, interested persons may submit written data or comments with respect to these designations on or before June 4, 1959, to the Director, Bureau of Air Traffic Management, Federal Aviation Agency. All communications so received will be considered by the FAA and the action taken herein will be re-evaluated in the light of any comments received.

Part 600 is amended as follows:

§ 600.16 [Amendment]

1. Section 600.16 *Green civil airway No. 6 (Alice, Tex., to Norfolk, Va.)* is amended by changing all after "Biloxi, Miss., radio range station" to read: "Biloxi, Miss., RR to the Mobile, Ala., RBN. From the Greensboro, N.C., RR via the Blackstone, Va., RR; Richmond, Va., RR; Norfolk, Va., RR to the Norfolk Municipal Airport, Norfolk, Va."

§ 600.19 [Amendment]

2. Section 600.19 *Green civil airway No. 9 (Hawaiian Islands)* is amended by changing the words which read: "to the INT of the northeast course of the Honolulu RR and a point at latitude 22°05'00" N., longitude 155°46'00" W." to read "to the INT of the northeast course of the Honolulu RR with longitude 155°46'00" W."

3. Section 600.610 is amended to read:

**§ 600.610 Blue civil airway No. 10 (Williams, Calif., to Red Bluff, Calif.).**

From the Williams, Calif., RR to the Red Bluff, Calif., RR.

§ 600.6010 [Amendment]

4. Section 600.6010 *VOR civil airway No. 10 (Pueblo, Colo., to New York, N.Y.)* is amended by changing the portion which reads: "to the point of INT of the Stroudsburg omnirange 114° True radial and the La Guardia (New York, N.Y.) Airport ILS localizer southwest course." to read: "to the point of INT of the Stroudsburg VOR 114° with the Robbinsville, N.J., VOR 040° radials."

5. Section 600.6042 is amended to read:

**§ 600.6042 VOR civil airway No. 42 (Flint, Mich., to Washington, D.C.).**

From the Flint, Mich., VOR via the Windsor, Ont., VOR; Cleveland, Ohio, VOR; point of INT of the Youngstown, Ohio, VOR 233° and the Cleveland, Ohio, VOR 116° radials; Imperial, Pa., VOR; point of INT of the Imperial VOR 074° and the Ellwood City, Pa., VOR 122° radials; Johnstown, Pa., VOR; Martinsburg, W. Va., VOR; to the Washington, D.C., TVOR.

§ 600.6051 [Amendment]

6. Section 600.6051 *VOR civil airway No. 51 (Key West, Fla., to Chicago, Ill.)* is amended by changing "Chicago, Ill., O'Hare International Airport TVOR 078° radials." to read: "Chicago, Ill. (O'Hare) VOR 078° radials."

7. Section 600.6072 is amended to read:

**§ 600.6072 VOR civil airway No. 72 (Fayetteville, Ark., to Albany, N.Y.).**

From the Fayetteville, Ark., VOR; via the Maples, Mo., VOR; INT of the Maples VOR 055° and the Troy VOR 230° radials; Troy, Ill., VOR; Vandalia, Ill., VOR; Westpoint, Ind., VOR; to the Lafayette, Ind., VOR. From the Findlay, Ohio, VOR via the Attica, Ohio, VOR; Cleveland, Ohio, VOR; Youngstown, Ohio, VOR; point of INT of the Fitzgerald, Pa., VOR 304° and the Bradford VOR 260° radials; Bradford, Pa., VOR; point of INT of the Bradford VOR 078° radial with the Stonyfork, Pa., VOR direct radial to the Wellsville, N.Y., VOR; Elmira, N.Y., VOR; Binghamton, N.Y., VOR; Rockdale, N.Y., VOR; to the Albany, N.Y., VOR.

8. Section 600.6087 is amended to read:

**§ 600.6087 VOR civil airway No. 87 (San Francisco, Calif., to Red Bluff, Calif.).**

From the San Francisco, Calif., TVOR via the point of INT of the Oakland, Calif., VOR 330° radial with the Sausalito, Calif., VOR direct radial to the Sacramento, Calif., VOR; Napa, Calif., VOR; INT of the Napa VOR 004° and the Maxwell VOR 188° radials; Maxwell, Calif., VOR; to the Red Bluff, Calif., VOR.

9. Section 600.6130 is amended to read:

**§ 600.6132 VOR civil airway No. 130 (Albany, N.Y., to Providence, R.I.).**

From the Albany, N.Y., VOR via the Hartford, Conn., VOR; Norwich, Conn., VOR; to the point of INT of the Norwich VOR 090° radial and the Providence, R.I., ILS localizer south course.

10. Section 600.6133 is amended to read:

**§ 600.6133 VOR civil airway No. 133 (Charlotte, N.C., to Traverse City, Mich.).**

From the Charlotte, N.C., VOR via the Hickory, N.C., VOR; Charleston, W. Va., VOR; Zanesville, Ohio, VOR; Tiverton, Ohio, VOR; Mansfield, Ohio, VOR; Sandusky, Ohio, VOR; INT of the Waterville, Ohio, VOR 058° and the Salem VOR 140° radials; Salem, Mich., VOR; Flint, Mich., VOR; Saginaw, Mich., VOR; to the Traverse City, Mich., VOR. The portion of this airway which lies within the geographic limits of, and between the designated altitudes of, the Lacarne Restricted Area (R-149) is excluded during this restricted area's designated time of use.

§ 600.6154 [Amendment]

11. Section 600.6154 *VOR civil airway No. 154 (Meridian, Miss., to Savannah, Ga.)* is amended by changing "Allendale, Ga." to read: "Allendale, S.C."

§ 600.6172 [Amendment]

12. Section 600.6172 *VOR civil airway No. 172 (Denver, Colo., to South Bend, Ind.)* is amended by changing all after "Polo, Ill., VOR;" to read: "Polo, Ill., VOR; INT of the Polo VOR 088° and the Chicago (O'Hare) VOR 269° radials; Chicago, Ill. (O'Hare) VOR; INT of the Chicago (O'Hare) VOR 078° and the South Bend VOR 314° radials; to the South Bend, Ind., VOR."

§ 600.6190 [Amendment]

13. Section 600.6190 *VOR civil airway No. 190 (Phoenix, Ariz., to Evansville, Ind.)* is amended by changing all after "Springfield, Mo., omnirange station;" to read: "Springfield, Mo., VOR; Maples, Mo., VOR; Farmington, Mo., VOR; to the Evansville, Ind., VOR."

14. Section 600.6191 is amended to read:

**§ 600.6191 VOR civil airway No. 191 (Memphis, Tenn., to Milwaukee, Wis.).**

From the Memphis, Tenn., VOR via the Walnut Ridge, Ark., VOR; Farmington, Mo., VOR; INT of the Farmington VOR 351° and the Troy VOR 215° radials; Troy, Ill., VOR; Decatur, Ill., VOR; Roberts, Ill., VOR; point of INT of the Roberts VOR 008° and the Joliet, Ill., VOR direct radial to the Kedzie Ill., RBN. From the Chicago, Ill. (O'Hare) VOR via the INT of the Chicago (O'Hare) VOR 019° radials and the Milwaukee VOR 137° radials; to the Milwaukee, Wis., VOR.

15. Section 600.6195 is amended to read:

**§ 600.6195 VOR civil airway No. 195 (Oakland, Calif., to Fortuna, Calif.).**

From the Oakland, Calif., VOR via the INT of the Oakland VOR 004° and the Williams VOR 191° radials; Williams, Calif., VOR; INT of the Williams VOR 002° and the Red Bluff VOR 158° radials; Red Bluff, Calif., VOR; to the Fortuna, Calif., VOR.

§ 600.6217 [Amendment]

16. Section 600.6217 *VOR civil airway No. 217 (Chicago, Ill., to Green Bay, Wis.)* is amended by changing "Chicago, Ill., International (O'Hare) Airport TVOR" to read "Chicago, Ill. (O'Hare) VOR" wherever it appears.

17. Section 600.6218 is amended to read:

**§ 600.6218 VOR civil airway No. 218 (Chicago, Ill., to Flint, Mich.).**

From the point of INT of the Rockford, Ill., VOR 136° and the Naperville VOR 290° radials via the Naperville, Ill., VOR; Keeler, Mich., VOR; Lansing, Mich., VOR; to the Flint, Mich., VOR.

§ 600.6251 [Amendment]

18. Section 600.6251 *VOR civil airway No. 251 (Front Royal, Va., to Sparta, N.J.)* is amended by changing "Martinsburg, Va." to read: "Martinsburg, W. Va."

19. Section 600.6254 is amended to read:

**§ 600.6254 VOR civil airway No. 254 (Reinholds, Pa., to Columbus, N.J.).**

From the point of INT of the Lancaster, Pa., VOR direct radial to the Allentown, Pa., VOR with the Pottstown VOR 275° radial via the Pottstown, Pa., VOR; to the point of INT of the Pottstown VOR 104° radial with the Robbinsville, N.J., VOR direct radial to the New Castle, Del., VOR.

§ 600.6276 [Amendment]

20. Section 600.6276 *VOR civil airway No. 276 (Navarre, Ohio, to Monmouth, N.J.)* is amended by changing "Tyrone VOR 295°" to read: "Tyrone VOR 281°".

§ 600.6429 [Amendment]

21. Section 600.6429 *VOR civil airway No. 429 (Decatur, Ill., to Janesville, Wis.)* is amended by changing "Chicago, Ill., International (O'Hare) Airport TVOR" to read: "Chicago, Ill. (O'Hare) VOR" wherever it appears.

22. Section 600.6441 is amended to read:

§ 600.6441 VOR civil airway No. 441 (Tampa, Fla., to Ocala, Fla.).

From the point of INT of the St. Petersburg, Fla., VOR 153° radial with the Tampa International Airport ILS localizer south course via the Tampa, Fla., International Airport ILS localizer; point of INT of the Tampa International Airport ILS localizer north course and the Ocala VOR 212° radial; to the Ocala, Fla., VOR.

§ 600.6616 [Amendment]

23. Section 600.6616 *VOR civil airway No. 1516 (San Francisco, Calif., to Washington, D.C.)* is amended by changing the portion which reads: "Springfield, Mo., VOR; Farmington, Mo., VOR;" to read: "Springfield, Mo., VOR; Maples, Mo., VOR; Farmington, Mo., VOR;"

This amendment shall become effective 0001 e.s.t., June 4, 1959.

(Sec. 313(a) of the Federal Aviation Act of August 23, 1958, 72 Stat. 752 (Pub. Law 85-726). Interpret or apply sec. 307; 72 Stat. 749-750)

Issued in Washington, D.C., on April 21, 1959.

E. R. QUESADA,
*Administrator.*

[F.R. Doc. 59-3491; Filed, Apr. 24, 1959; 8:45 a.m.]

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[Amdt. 12]

## PART 600—DESIGNATION OF CIVIL AIRWAYS

### Alterations

The purpose of this action is to make minor alterations in the designation of civil airways concurrently with the designation of restricted area/military climb corridors at Sault Ste. Marie, Mich., Kinross AFB (R-562); Duluth, Minn., Municipal Airport (R-548); and Anchorage, Alaska, Elmendorf AFB (R-561), and with minor alterations to related controlled airspace at these locations. While this action relates to a military function, it is necessary primarily to protect civil air traffic from hazards created by high-performance type military aircraft operating in areas in which separation cannot be provided by any other means at the present time. This action has been coordinated with the various civil aviation organizations, the Army, the Navy and the Air Force. It will become effective on June 4, 1959. For these reasons, the notice, procedure and effective date requirements of section 4 of the Administrative Procedure Act, in effect, have been complied with. However, interested persons may submit written data or comments with respect to these designations on or before June 4, 1959, to the Director, Bureau of Air Traffic Management, Federal Aviation Agency. All communications so received will be considered by the FAA and the actions taken herein will be re-evaluated in the light of any comments received.

Part 600 is amended as follows:

§ 600.18 [Amendment]

1. Section 600.18 *Green civil airway No. 8 (Cold Bay, Alaska, to Northway, Alaska)* is amended by adding the following sentence to read: "The portion of this airway which lies within the Anchorage, Alaska, Elmendorf AFB Restricted Area/Military Climb Corridor (R-561) shall be used only after obtaining prior approval from the controlling agency."

§ 600.101 [Amendment]

2. Section 600.101 *Amber civil airway No. 1 (United States-Mexican Border to Nome, Alaska)* is amended by adding the following sentence to read: "The portion of this airway which lies within the Anchorage, Alaska, Elmendorf AFB Restricted Area/Military Climb Corridor (R-561) shall be used only after obtaining prior approval from the controlling agency."

§ 600.626 [Amendment]

3. Section 600.626 *Blue civil airway No. 26 (Anchorage, Alaska, to Northway, Alaska)* is amended by adding the following sentence to read: "The portion of this airway which lies within the Anchorage, Alaska, Elmendorf AFB Restricted Area/Military Climb Corridor (R-561) shall be used only after obtaining prior approval from the controlling agency."

§ 600.632 [Amendment]

4. Section 600.632 *Blue civil airway No. 32 (Anchorage, Alaska, to Talkeetna, Alaska)* is amended by adding the following sentence to read: "The portion of this airway which lies within the Anchorage, Alaska, Elmendorf AFB Restricted Area/Military Climb Corridor (R-561) shall be used only after obtaining prior approval from the controlling agency."

§ 600.603 [Amendment]

5. Section 600.603 *Blue civil airway No. 3 (Miami, Fla., to Sault Ste. Marie, Mich.)* is amended by changing the portion which reads: "Traverse City, Mich., RR; Pellston, Mich., RBN to the Sault Ste. Marie, Mich., RR." to read: "Traverse City, Mich., RR to the Sault Ste. Marie, Mich., RR."

§ 600.6436 [Amendment]

6. Section 600.6436 *VOR civil airway No. 436 (Kenai, Alaska, to Talkeetna, Alaska)* is amended by adding a last sentence to read: "The portion of this airway which lies within the Anchorage (Elmendorf AFB), Alaska, Restricted Area/Military Climb Corridor shall be used only after obtaining prior approval from the controlling agency."

§ 600.6438 [Amendment]

7. Section 600.6438 *VOR civil airway No. 438 (Skilak, Alaska, to Talkeetna, Alaska)* is amended by adding a last sentence to read: "The portion of this airway which lies within the Anchorage (Elmendorf AFB), Alaska, Restricted Area/Military Climb Corridor shall be used only after obtaining prior approval from the controlling agency."

§ 600.6440 [Amendment]

8. Section 600.6440 *VOR civil airway No. 440 (Whittier, Alaska, to Skwentna, Alaska)* is amended by adding a last sentence to read: "The portion of this airway which lies within the Anchorage (Elmendorf AFB), Alaska, Restricted Area/Military Climb Corridor shall be used only after obtaining prior approval from the controlling agency."

9. Section 600.6193 is amended to read:

§ 600.6193 VOR civil airway No. 193 (Keeler, Mich., to Sault Ste. Marie, Mich.).

From the Keeler, Mich., VOR via the Pullman, Mich., VOR; Grand Rapids, Mich., Kent County Airport ILS OM; White Cloud, Mich., VOR; Traverse City, Mich., VOR; INT of the Traverse City VOR 018° and the Sault Ste. Marie VOR 214° radials; to the Sault Ste. Marie, Mich., VOR.

This amendment shall become effective 0001 e.s.t., June 4, 1959.

(Sec. 313(a) of the Federal Aviation Act of August 23, 1958, 72 Stat. 752 (Pub. Law 85-726). Interpret or apply sec. 307; 72 Stat. 749-750)

Issued in Washington, D.C., on April 21, 1959.

E. R. QUESADA,
*Administrator.*

[F.R. Doc. 59-3494; Filed, Apr. 24, 1959; 8:45 a.m.]

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[Amdt. 11]

## PART 601—DESIGNATION OF THE CONTINENTAL CONTROL AREA, CONTROL AREAS, CONTROL ZONES, REPORTING POINTS, AND POSITIVE CONTROL ROUTE SEGMENTS

### Alterations

These control area, control zone and reporting point alterations largely result from necessary changes in navigational aids, such as: Commissioning, decommissioning, realignment, etc., which are required on the date indicated in order to promote safety. This action has been coordinated with various civil aviation organizations, the Army, the Navy and the Air Force. It will become effective on June 4, 1959. For these reasons, the notice, procedure and effective date requirements of section 4 of the Administrative Procedure Act, in effect, have been complied with. However, interested persons may submit written data or comments with respect to these designations on or before June 4, 1959, to the Director, Bureau of Air Traffic Management, Federal Aviation Agency. All communications so received will be considered by the FAA and the action taken herein will be re-evaluated in the light of any comments received.

Part 601 is amended as follows:

1. Section 601.610 is amended to read:

**§ 601.610 Blue civil airway No. 10 control areas (Williams, Calif., to Red Bluff, Calif.).**

All of Blue civil airway No. 10.

**§ 601.1014 [Amendment]**

2. Section 601.1014 *Control area extension (Greenville, S.C.) (Greenville-Charlotte-Greensboro Area)* is amended by changing the words which read: "Green civil airway No. 6" to read: "VOR civil airway No. 20" wherever they appear.

3. Section 601.1056 is amended to read:

**§ 601.1056 Control area extension (Buffalo, N.Y.).**

The airspace within the continental limits of the United States within a 50-mile radius of the Buffalo Municipal Airport excluding the portions which lie within the geographic limits of, and between the designated altitudes of, the Wilson Restricted Area (R–11) and the Oswego Restricted Area (R–70) during these restricted areas' times of designation.

**§ 601.1112 [Amendment]**

4. Section 601.1112 *Control area extension (Fort Dix, N.J.)* is amended by deleting the words which read: "excluding the portion which lies within the geographic limits of, and between the established altitudes of, the Lakehurst Caution Area (C–24) during its established time of use,".

5. Section 601.1137 is amended to read:

**§ 601.1137 Control area extension (Big Spring, Tex.).**

The airspace within a 35-mile radius of the Big Spring VOR, including the airspace northwest of the VOR bounded on the northeast by VOR civil airway No. 76N and on the west by VOR civil airways No. 81 and No. 76.

6. Section 601.1175 is amended to read:

**§ 601.1175 Control area extension (Charleston, S.C.).**

The airspace south of Charleston bounded on the north by VOR civil airway No. 53 and the Charleston control area extension 601.1152, on the southeast by a line 3 nautical miles southeast of and parallel to the shoreline, on the south by the Savannah control area extension 601.1008, and on the west by VOR civil airway No. 3; the airspace northeast of Charleston bounded on the west by Amber civil airway No. 9, on the north by the Myrtle Beach control area extension 601.1369, on the east by a line 5 miles east of and parallel to the Myrtle Beach VOR 218° radial, and on the south by the Charleston control area extension 601.1152. The portions of this control area which lie within the Beaufort Restricted Area (R–563) shall be used only after obtaining prior approval from the Federal Aviation Agency Air Traffic Control.

7. Section 601.1195 is amended to read:

**§ 601.1195 Control area extension (San Angelo, Tex.).**

The airspace within a 35-mile radius of the San Angelo, Tex., VOR, including the airspace northwest of the VOR bounded on the north by the Big Spring control area extension 601.1137, on the northeast by VOR civil airway No. 76, and on the southwest by VOR civil airway No. 68.

8. Section 601.1432 is amended to read:

**§ 601.1432 Control area extension (Billings, Mont.).**

The airspace within a 25-mile radius of the Billings VOR extending from the north boundary of VOR civil airway No. 2 west of Billings clockwise to the northeastern boundary of VOR civil airway No. 19 southeast of Billings.

9. Section 601.1469 is added to read:

**§ 601.1469 Control area extension (Battle Creek, Mich.).**

The airspace within a 35-mile radius of the Battle Creek VOR.

10. Section 601.1306 is amended to read:

**§ 601.1306 Control area extension (Mountain Home, Idaho).**

Within 5 miles either side of a direct line extending from the Mountain Home RBN to the Boise, Idaho, RR, the airspace within a 35-mile radius of the Mountain Home AFB bounded on the northeast by Green civil airway No. 10, the airspace within 5 miles either side of the Mountain Home TVOR 178° and 208° radials extending from the TVOR to points 61 miles south and southwest of the TVOR, and within 5 miles either side of the Twin Falls, Idaho, VOR 269° radials extending from the VOR to its intersection with the Mountain Home TVOR 178° radial. The portion of this control area extension which lies within the geographic limits of, and between the designated altitudes of, the Sailor Creek Restricted Area (R–254) is excluded during the restricted area's time of designation.

**§ 601.1983 [Amendment]**

11. Section 601.1983 *Three mile radius zones* is amended by deleting the following: Lakehurst, N.J.: Naval Air Station.

**§ 601.2098 [Amendment]**

12. Section 601.2098 *Flint, Mich., control zone* is amended by adding the following portion to the present control zone: "and within 2 miles either side of the 186°/280° radials of the Flint VOR extending from the VOR to points 12 miles south and west."

**§ 601.2269 [Amendment]**

13. Section 601.2269 *Fort Dix, N.J., control zone* is amended by deleting the words which read: "and the Lakehurst Caution Area (C–24)."

**§ 601.2293 [Amendment]**

14. Section 601.2293 *Chicago, Ill., control zone* is amended by adding the following portion to the present control zone: "and within 2 miles either side of the 332° radial of the Chicago (O'Hare) VOR extending from the VOR to a point 12 miles northwest."

15. Section 601.2369 is amended to read:

**§ 601.2369 Sacramento, Calif., control zone.**

Within a 5-mile radius of Mather AFB, Sacramento, Calif., and within 2 miles either side of a direct line extending from the center point of the AFB to the Mather AFB TVOR, excluding the portion which overlaps the Sacramento control zone 601.2185.

16. Section 601.2448 is added to read:

**§ 601.2448 Lakehurst, N.J., control zone.**

Within a 5-mile radius of a point centered on the INT of Runways 6/24 and 15/33 of West Field, Lakehurst, N.J., including the airspace within 5 miles either side of the extended centerline of Runway 15/33 extending southeastward to a point 12 miles from the southeast end of Runway 33, excluding the portion which lies within the geographic limits of, and between the designated altitudes of, the Fort Dix Restricted Area (R–25) during the restricted area's time of designation.

17. Section 601.2449 is added to read:

**§ 601.2449 Columbus, Miss., control zone.**

Within a 7-mile radius of the Columbus AFB and within 2½ miles either side of the extended centerline of Runway 14/32 extending from the runway northwest end to a point 12 miles northwest.

**§ 601.4016 [Amendment]**

18. Section 601.4016 *Green civil airway No. 6 (Alice, Tex., to Norfolk, Va.)* is amended by deleting the following reporting points: "Maxwell AFB, Ala., radio range station; Atlanta, Ga., radio range station; Spartanburg, S.C., radio range station;"

**§ 601.4019 [Amendment]**

19. Section 601.4019 *Green civil airway No. 9 (Hawaiian Islands)* is amended by changing the words which read: "the INT of the northeast course of the Honolulu RR and a point at latitude 22°05'00" N., longitude 155°46'00" W." to read: "the INT of the northeast course of the Honolulu RR with longitude 155°46'00" W."

20. Section 601.4284 is amended to read:

**§ 601.4284 Red civil airway No. 84 (Meridian, Miss., to Columbus, Ga.).**

Maxwell AFB RR, Montgomery, Ala.; Columbus, Ga., RR.

**§ 601.4610 [Amendment]**

21. Section 601.4610 is amended by changing the caption to read: *"Blue civil airway No. 10 (Williams, Calif., to Red Bluff, Calif.)."*

22. Section 601.4628 is amended to read:

**§ 601.4628 Blue civil airway No. 28 (Columbia, S.C., to Bulls Gap, Tenn.).**

Spartanburg, S.C., RR; the INT of the northwest course of the Spartanburg, S.C., RR and a line bearing 57° True from the Asheville, N.C., (Hendersonville) RBN.

23. Section 601.6072 is amended to read:

**§ 601.6072 VOR civil airway No. 72 control areas (Fayetteville, Ark., to Albany, N.Y.).**

All of VOR civil airway No. 72.

24. Section 601.6087 is amended to read:

**§ 601.6087 VOR civil airway No. 87 control areas (San Francisco, Calif., to Red Bluff, Calif.).**

All of VOR civil airway No. 87.

**§ 601.7001 [Amendment]**

25. Section 601.7001 *VOR domestic reporting points* is amended by changing the following reporting point to read:

Paterson INT: The INT of the Wilton, Conn., VOR 240° T, the Huguenot, N.Y., VOR 144° T and the Stillwater, N.J., VOR 095° T radials.

by adding the following reporting points:

Flint, Mich., VOR.
Maples, Mo., VOR.
Walter INT: The INT of the Cleveland, Ohio, VOR 201° T radial and the Wellington, Ohio, VAR west course.

and by revoking the following reporting point:

Flint INT: The INT of the Lansing, Mich., VOR 068° and the Salem, Mich., VOR 342° radials.

This amendment shall become effective 0001 e.s.t. June 4, 1959.

(Sec. 313(a) of the Federal Aviation Act of August 23, 1958, 72 Stat. 752 (Pub. Law 85-726). Interpret or apply sec. 307; 72 Stat. 749-750)

Issued in Washington, D.C., on April 21, 1959.

E. R. QUESADA,
*Administrator.*

[F.R. Doc. 59-3492; Filed, Apr. 24, 1959; 8:45 a.m.]

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[Amdt. 12]

## PART 601—DESIGNATION OF THE CONTINENTAL CONTROL AREA, CONTROL AREAS, CONTROL ZONES, REPORTING POINTS, AND POSITIVE CONTROL ROUTE SEGMENTS

### Alterations

The purpose of this action is to make minor alterations in the designation of control areas and control zones concurrently with the designation of restricted area/military climb corridors at Sault Ste. Marie, Mich., Kinross AFB (R-562); Duluth, Minn., Municipal Airport (R-548); and Anchorage, Alaska, Elmendorf AFB (R-561), and with minor alterations to related civil airways. While this action relates to a military function, it is necessarily primarily to protect civil air traffic from hazards created by high-performance type military aircraft operating in areas in which separation cannot be provided by any other means at the present time. This action has been coordinated with the various civil aviation organizations, the Army, the Navy and the Air Force. It will become effective on June 4, 1959. For these reasons, the notice, procedure and effective date requirements of section 4 of the Administrative Procedure Act, in effect, have been complied with. However, interested persons may submit written data or comments with respect to these designations on or before June 4, 1959, to the Director, Bureau of Air Traffic Management, Federal Aviation Agency. All communications so received will be considered by the FAA and the actions taken herein will be re-evaluated in the light of any comments received.

Part 601 is amended as follows:

**§ 601.1288 [Amendment]**

1. Section 601.1288 *Control area extension (Sault Ste. Marie, Mich.)* is amended by deleting the words which read: "excluding the portion which lies within the geographical limits of, and between the designated altitudes of, the Hammond Bay Restricted Area (R-424) during its time of designation." and by adding the following sentence to read: "The portion of this control area extension which lies within the Sault Ste. Marie, Mich., Kinross AFB Restricted Area/Military Climb Corridor (R-562) shall be used only after obtaining prior approval from the controlling agency."

**§ 601.1398 [Amendment]**

2. Section 601.1398 *Control area extension (Anchorage, Alaska)* is amended by adding the following sentence to read: "The portion of this control area extension which lies within the Anchorage, Alaska, Elmendorf AFB Restricted Area/Military Climb Corridor (R-561) shall be used only after obtaining prior approval from the controlling agency."

3. Section 601.1422 is amended to read:

**§ 601.1422 Control area extension (Duluth, Minn.).**

The airspace within a 30 nautical mile radius of the Duluth VOR. The portion of this control area extension which lies within the Duluth, Minn., Municipal Airport Restricted Area/Military Climb Corridor (R-548) shall be used only after obtaining prior approval from the controlling agency.

4. Section 601.1468 is added to read:

**§ 601.1468 Control area extension (Pellston, Mich.).**

The airspace within a 15-mile radius centered on the Pellston Airport, Pellston, Mich.

**§ 601.2279 [Amendment]**

5. Section 601.2279 *Anchorage, Alaska, control zone* is amended by adding the following sentence to read: "The portion of this control zone which lies within the Anchorage, Alaska, Elmendorf AFB Restricted Area/Military Climb Corridor (R-561) shall be used only after obtaining prior approval from the controlling agency."

**§ 601.2368 [Amendment]**

6. Section 601.2368 *Sault Ste. Marie, Mich., control zone* is amended by adding the following sentence to read: "The portion of this control zone which lies within the Sault St. Marie, Mich., Kinross AFB Restricted Area/Military Climb Corridor (R-562) shall be used only after obtaining prior approval from the controlling agency."

**§ 601.4603 [Amendment]**

7. Section 601.4603 *Blue civil airway No. 3 (Miami, Fla., to Sault Ste. Marie, Mich.)* is amended by deleting the following reporting point: "Pellston, Mich., nondirectional radio beacon."

**§ 601.5001 [Amendment]**

8. Section 601.5001 *Other reporting points* is amended by adding the following airport: "Pellston, Mich.: Pellston RBN."

This amendment shall become effective 0001 e.s.t. June 4, 1959.

(Sec. 313(a) of the Federal Aviation Act of August 23, 1958, 72 Stat. 752 (Pub. Law 85-726). Interpret or apply sec. 307; 72 Stat. 749-750)

Issued in Washington, D.C. on April 21, 1959.

E. R. QUESADA,
*Administrator.*

[F.R. Doc. 59-3495; Filed, Apr. 24, 1959; 8:45 a.m.]

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[Amdt. 13]

## PART 608—RESTRICTED AREAS

### Alterations

The purpose of this action is to establish climb corridors for Century Series aircraft on active air defense missions operating from the Kinross AFB, Sault Ste. Marie, Michigan, the Duluth, Minnesota, Municipal Airport, and the Elmendorf AFB, Anchorage, Alaska. These climb corridors, designated hereinafter as Restricted Area/Military Climb Corridors (R-562), (R-548), and (R-561) respectively, will be used continuously, and permission to enter them must be obtained from the specified controlling agency. Concurrently, minor alterations to related airways and controlled airspace are being made. This action also redescribes the Hammond Bay, Michigan, restricted area (R-424) to delete the portion which would otherwise be in conflict with the Kinross AFB climb corridor. It also modifies the upper level of the presently designated altitudes of the Portland, Oregon, Spokane, Washington, and Tacoma, Washington, climb corridors to permit greater flexibility in the assignment of military missions utilizing Century Series aircraft.

While this action relates to a military function, it is necessary primarily to protect civil air traffic from the hazards created by high-performance type military aircraft operating in areas in which separation cannot be provided by any other means at the present time. This action has been coordinated with the various civil aviation organizations, the Army, the Navy and the Air Force. It will become effective on June 4, 1959. For these reasons, the notice, procedure

and effective date requirements of section 4 of the Administrative Procedure Act, in effect, have been complied with. However, interested persons may submit written data or comments with respect to these designations on or before June 4, 1959, to the Director, Bureau of Air Traffic Management, Federal Aviation Agency. All communications so received will be considered by the FAA and the actions taken herein will be re-evaluated in the light of any comments received.

Part 608 published as a "Revision of the Part" on November 4, 1958, in 23 F.R. 8575 is amended as follows:

1. In § 608.30, the Sault Ste. Marie, Michigan, Kinross AFB Restricted Area/Military Climb Corridor (R–562) (Chart RF–31–W) is added to read:

Description by geographical coordinates: The airspace centered on the 154° M (149° T) radial of the Kinross TVOR extending from a point 7 miles from the TVOR to a point 34 miles southeast of the TVOR, having a width of 2 miles at a point 7 miles from the TVOR, and expanding to a width of 4.6 miles at a point 34 miles from the TVOR.

Designated altitudes: 2,800 feet MSL to 10,800 feet MSL from a point 7 miles from the TVOR to a point 8 miles southeast of the TVOR. 2,800 feet MSL to 17,800 feet MSL from a point 8 miles to a point 10 miles from the TVOR. 2,800 feet MSL to 23,800 feet MSL from a point 10 miles to a point 12 miles from the TVOR. 6,800 feet MSL to 27,000 feet MSL from a point 12 miles to a point 17 miles from the TVOR. 10,800 feet MSL to 27,000 feet MSL from a point 17 miles to a point 22 miles from the TVOR. 15,800 feet MSL to 27,000 feet MSL from a point 22 miles to a point 27 miles from the TVOR. 19,800 feet MSL to 27,000 feet MSL from a point 27 miles to a point 34 miles from the TVOR.

Time of designation: Continuous.

Controlling agency: USAF Air Traffic Control Tower—Kinross AFB.

2. In § 608.30, the Hammond Bay, Michigan, area (R–424) amended on December 19, 1958 in 23 F.R. 9773 is further amended by changing the "Description by Geographical Coordinates" to read: "Beginning at latitude 45°51'–00", longitude 84°03'30"; thence to latitude 45°37'40", longitude 84°13'15"; thence to latitude 45°18'40", longitude 83°20'25"; thence to latitude 45°32'20", longitude 83°11'50"; thence to point of beginning".

3. In § 608.31, the Duluth Municipal Airport, Minnesota, Restricted Area/Military Climb Corridor (R–548) (Chart-RF 27) is added to read:

Description by geographical coordinates: The airspace centered on the 004° True radial of the Duluth TVOR, extending from the airport 5-mile control zone to a point 27 miles north, having a width of 4 miles (two and one half miles and one and one half miles east of the above designated radial) at the boundary of the airport control zone and expanding to a width of 4.6 (2.3 miles each side of the above described radial) at 27 miles from the airport control zone.

Designated altitudes: 3,400 feet MSL to 11,400 feet MSL from the edge of the 5-mile airport control zone to a point 1 mile north of the control zone. 3,400 feet MSL to 18,400 feet MSL from a point 1 mile to a point 3 miles from the control zone. 3,400 feet MSL to 24,400 feet MSL from a point 3 miles to a point 5 miles from the control zone. 7,400 feet MSL to 27,000 feet MSL from a point 5 miles to a point 10 miles from the control zone. 11,400 feet MSL to 27,000 feet MSL from a point 10 miles to a point 15 miles from the control zone. 16,400 feet MSL to 27,000 feet MSL from a point 15 miles to a point 20 miles from the control zone. 20,400 feet MSL to 27,000 feet MSL from a point 20 miles to a point 27 miles from the control zone.

Time of designation: Continuous.

Controlling agency: FAA Airport Traffic Control Tower—Duluth Municipal Airport.

4. In § 608.61, the Anchorage, Alaska, Elmendorf AFB Restricted Area/Military Climb Corridor (R–561) (Chart-Alaska RF) is added to read:

Description by geographical coordinates: That area centered on the 296° True radial of the Elmendorf AFB TACAN, extending from a point 3 miles from the west end of Runway 23 of Elmendorf AFB to a point 25 miles from the west end of the runway, and having a width of 2.145 miles at the entrance and a width of 4.3 miles at the outer end.

Designated altitudes: The area described above shall include only the airspace between the following altitudes: From 0 to 2 statute miles, lower limit 3,000 feet; upper limit 27,000 feet. From 2 to 4 statute miles, lower limit 5,000 feet; upper limit 27,000 feet. From 4 to 9 statute miles, lower limit 7,000 feet; upper limit 27,000 feet. From 9 to 14 statute miles, lower limit 12,500 feet; upper limit 27,000 feet. From 14 to 19 statute miles, lower limit 17,500 feet; upper limit 27,000 feet. From 19 to 22 statute miles, lower limit 23,000 feet; upper limit 27,000 feet.

Time of designation: Continuous

Controlling agency: Anchorage Approach Control, FAA.

5. In § 608.45, the Portland International Airport Military Climb Corridor, Oregon (R–535) is amended by changing the "Designated Altitudes" column to read: "Upper level: Beginning at the edge of the control zone to a point 1 mile from said edge, at a level of 15,000 feet MSL; thence to a point 2 miles from said edge, at a level of 24,000 feet MSL; thence to a point 27 miles from said edge at a level of 27,000 feet MSL."

6. In § 608.55, the Spokane (Geiger Field) Restricted Area/Military Climb Corridor, Washington (R–538) is amended by changing the "Designated Altitudes" column to read: "The area shall include the airspace between the following altitudes only: 4,500 feet MSL to 17,500 feet MSL from the Spokane Control Zone to a point 1 mile north thereof. 4,500 feet MSL to 26,500 feet MSL from a point 1 mile to a point 2 miles from the control zone. 4,500 feet MSL to 27,000 feet MSL from a point 2 miles to a point 5 miles from the control zone. 8,500 feet MSL to 27,000 feet MSL from a point 5 miles to a point 10 miles from the control zone. 12,500 feet MSL to 27,000 feet MSL from a point 10 miles to a point 15 miles from the control zone. 17,500 feet MSL to 27,000 feet MSL from a point 15 miles to a point 20 miles from the control zone. 21,500 feet MSL to 27,000 feet MSL from a point 20 miles to a point 25 miles from the control zone."

7. In § 608.55, the Tacoma, Washington (McChord AFB) Restricted Area/Military Climb Corridor (R–546) amended on November 26, 1958 in 23 F.R. 9134, is further amended by changing the "Designated Altitudes" column to read: "The area described above shall include the airspace between the following altitudes only: 2,300 feet MSL to 15,300 feet MSL from the control zone to a point 1 mile northwest thereof. 2,300 feet MSL to 24,300 feet MSL from a point 1 mile to a point 2 miles from the control zone. 2,300 feet MSL to 27,000 feet MSL from a point 2 miles to a point 5 miles from the control zone. 6,300 feet MSL to 27,000 feet MSL from a point 5 miles to a point 10 miles from the control zone. 10,300 feet MSL to 27,000 feet MSL from a point 10 miles to a point 15 miles from the control zone. 15,300 feet MSL to 27,000 feet MSL from a point 15 miles to a point 20 miles from the control zone. 19,300 feet MSL to 27,000 feet MSL from a point 20 miles to a point 27 miles from the control zone."

This amendment shall become effective 0001 e.s.t. on June 4, 1959.

(Sec 313(a) of the Federal Aviation Act of 1958, Act of August 23, 1958, 72 Stat. 752 (Pub. Law 85–726). Interpret or apply sec. 307(a) and 307(c); 72 Stat. 749, 750 (Pub. Law 85–726))

Issued in Washington, D.C., on April 21, 1959.

E. R. QUESADA,
*Administrator.*

[F.R. Doc. 59–3496; Filed, Apr. 24, 1959; 8:46 a.m.]

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[Amdt. 14]

## PART 608—RESTRICTED AREAS

### Minor Alterations of Existing Restricted Areas

This amendment makes minor alterations in previously designated restricted areas involving changes in name, altitudes, time of designation, size or controlling agency. This action has been coordinated with various civil aviation organizations, the Army, the Navy and the Air Force. This action will become effective on June 4, 1959. For these reasons, the notice, procedure and effective date provisions of section 4 of the Administrative Procedure Act have in effect been complied with.

Part 608 published as a "Revision of the Part" on November 4, 1958, in 23 F.R. 8575 is amended as follows:

1. In § 608.13, the Pine Bluff, Arkansas, area (R–135) amended March 21, 1959, in 24 F.R. 2233 is further amended by correcting the "Description by Geographical Coordinates" to read: "An area within a five mile radius centered at latitude 34°21'00", longitude 92°04'00", excluding that portion overlapping civil airways and control areas."

2. In § 608.30, the Camp Grayling, Michigan, area (R–373) amended November 26, 1958 in 23 F.R. 9134 is further amended by correcting the "Time of Designation" to read: "April 1 through October 30 annually" instead of "May 23 through September 5 annually".

3. In § 608.36, the Black Rock Desert, Nevada, area (R–266) amended March 21, 1959, in 24 F.R. 2233 is further amended by correcting the "Geographical Description" to read: "Beginning at latitude 41°25'00", longitude 118°40'00", thence S to latitude 41°22'30", thence E to longitude 118°39'30", thence S to latitude 41°12'00", thence W to longitude

118°42'30", thence S to latitude 40°57'30", longitude 118°43'00", thence W to longitude 118°47'00", thence S to latitude 40°55'00", thence WSW to latitude 40°54'00, longitude 118°55'00", thence SW to latitude 40°47'00", longitude 119°11'30", thence N to latitude 40°57'30", thence E to longitude 119°04'00", thence NE to latitude 41°25'00", longitude 118°45'30", thence E to latitude 41°25'00", longitude 118°40'00", point of beginning".

4. In § 608.40, the Pine Camp, New York, area (R–66) is amended by changing the name to read: "Camp Drum, New York".

5. In § 608.42, the Devils Lake (Camp Grafton), North Dakota, area (R–457) is amended by changing the "Controlling Agency" to read: "The Adjutant General, State of North Dakota".

6. In § 608.55, the Fort Lewis, Washington, area (R–503) was inadvertently omitted due to clerical error. This restricted area was effective July 26, 1956. Accordingly add R–503, Fort Lewis, Washington (Seattle Chart).

Description by geographical coordinates: From a point on Highway US 99 at latitude 47°06'35", longitude 122°34'05"; southeasterly along road to Northern Pacific Railroad at latitude 47°05'22", longitude 122°30'15"; thence southerly along railroad to latitude 47°03'10", longitude 122°31'25"; thence northwesterly to the western edge of Victor Airway No. 23 at latitude 47°04'25", longitude 122°35'15"; thence northerly along the western edge of Victor Airway No. 23 to point of beginning at latitude 47°06'35", longitude 122°34'05".

Designated altitudes: Surface to 1,500 feet MSL.

Time of designation: Continuous.

Controlling agency: Commanding General, Fort Lewis, Washington.

7. In § 608.55, the Fort Lewis, Washington, area (R–504) was inadvertently omitted due to clerical error. This restricted area was effective July 26, 1956. Accordingly add R–504, Fort Lewis, Washington (Seattle Chart).

Description by geographical coordinates: From a point on the Northern Pacific Railroad at latitude 47°03'10", longitude 122°31'25"; southerly along railroad to latitude 47°02'30", longitude 122°31'40"; thence E to latitude 47°02'30", longitude 122°31'00"; thence southerly to latitude 47°00'50", longitude 122°31'25"; thence W to the Northern Pacific Railroad at latitude 47°00'50", longitude 122°32'10"; thence southerly along the railroad to latitude 46°54'30", longitude 122°39'30"; thence northeasterly along the W edge of Victor Airway No. 23 to latitude 47°04'25", longitude 122°35'15", thence southeasterly to point of beginning.

Designated altitudes: Surface to 5,000 feet MSL.

Time of designation: Continuous.

Controlling agency: Commanding General, Fort Lewis, Washington,

8. In § 608.55, the Fort Lewis, Washington, area (R–505) was inadvertently omitted due to clerical error. This restricted area was effective July 26, 1956. Accordingly add R–505, Fort Lewis, Washington (Seattle Chart).

Description by geographical coordinates: From a point along Highway US 99 at latitude 47°05'25", longitude 122°38'10"; thence southeasterly to the western edge of Victor Airway No. 23 at latitude 47°04'25", longitude 122°35'15"; thence southwesterly along the western edge of Victor Airway No. 23 to latitude 46°54'30", longitude 122°39'20"; thence southwesterly along the Northern Pacific Railroad to town of Ranier, Washington at latitude 46°53'12", longitude 122°41'15"; thence northwesterly along road to road junction at latitude 46°57'12", longitude 122°46'47"; thence due N to Northern Pacific Railroad at latitude 46°59'52", longitude 122°46'47"; thence northwesterly along railroad to Highway US 99 at latitude 47°05'00", longitude 122°40'04"; thence northeasterly along Highway US 99 to point of beginning at latitude 47°05'25", longitude 122°38'10".

Designated altitudes: Surface to 14,000 feet MSL.

Time of designation: Continuous.

Controlling agency: Commanding General, Fort Lewis, Washington.

9. In § 608.57, the Camp McCoy, Wisconsin, area (R–200) amended March 21, 1959, in 24 F.R. 2233 is further amended by correcting "Time of Designation" to read: "May 23 through September 5 annually" instead of "Continuous".

This amendment shall become effective on June 4, 1959.

(Sec. 313(a) of the Federal Aviation Act of 1958, Act of August 23, 1958, 72 Stat. 752 (Pub. Law 85–726). Interpret or apply secs. 307(a) and 307(c); 72 Stat. 749, 750 (Pub. Laws 85–726))

Issued in Washington, D.C., on April 21, 1959.

E. R. QUESADA,
*Administrator.*

[F.R. Doc. 59–3497; Filed, Apr. 24, 1959; 8:46 a.m.]

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[Amdt. 15]

## PART 608—RESTRICTED AREAS

### Alterations

This amendment rescinds the designation of two restricted areas (R–94 and R–312), and changes the "Controlling Agency" of another. This action has been coordinated with various civil aviation organizations, the Army, the Navy and the Air Force. This action will become effective on June 4, 1959. For these reasons, the notice, procedure and effective date provisions of section 4 of the Administrative Procedure Act, in effect, have been complied with.

Part 608 published as a "Revision of the Part" on November 4, 1958, in 23 F.R. 8575 is amended as follows:

1. In § 608.39, the Deming, New Mexico, area (R–312) is rescinded.

2. In § 608.39, the Guadalupe Mountains, New Mexico, area (R–212) is amended by changing the "Controlling Agency" to read: "Commander, Biggs AFB, Texas".

3. In § 608.40, the Lake Ontario, New York, area (R–94) is rescinded.

This amendment shall become effective on June 4, 1959.

(Sec. 313(a) of the Federal Aviation Act of 1958, Act of August 23, 1958, 72 Stat. 752 (Pub. Law 85–726). Interpret or apply sec. 307(a) and 307(c); 72 Stat. 749, 750 (Pub. Law 85–726)).

Issued in Washington, D.C., on April 21, 1959.

E. R. QUESADA,
*Administrator.*

[F.R. Doc. 59–3493; Filed, Apr. 24, 1959; 8:45 a.m.]

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# Title 7—AGRICULTURE

## Chapter VIII—Commodity Stabilization Service (Sugar), Department of Agriculture

SUBCHAPTER H—DETERMINATION OF WAGE RATES

[Sugar Determination 862.11]

## PART 862—SUGAR BEETS; REGIONS OTHER THAN STATE OF CALIFORNIA, SOUTHWESTERN ARIZONA, SOUTHERN OREGON, AND WESTERN NEVADA

### Wage Rates

Pursuant to the provisions of section 301(c)(1) of the Sugar Act of 1948, as amended (herein referred to as "act"), after investigation, and consideration of the evidence obtained at the public hearing held in several cities in the sugar beet area during January 1959, the following determination is hereby issued.

**§ 862.11 Fair and reasonable wage rates for persons employed in the production, cultivation, or harvesting of the 1959 crop of sugar beets in regions other than the State of California, southern Oregon, and western Nevada.**

(a) *Requirements.* A producer of sugar beets in regions other than the State of California, southern Oregon, and western Nevada shall be deemed to have complied with the wage provisions of the act if all persons employed on the farm, in the production, cultivation, or harvesting of the 1959 crop shall have been paid in accordance with the following:

(1) *Wage rates.* All such persons shall have been paid in full for all such work and shall have been paid wages in cash therefor at rates as agreed upon between the producer and the worker, and after the date of publication of this section in the FEDERAL REGISTER, not less than the following:

(i) *When employed on a time basis for the following operations:*

(*a*) For thinning, hoeing or weeding: 70 cents per hour.

(*b*) For pulling, topping or loading: 75 cents per hour.

(*c*) For operations specified above performed by workers between 14 and 16 years of age the above rates may be reduced by not more than one-third. Maximum employment is 8 hours per day for such workers without deduction from Sugar Act payments to the producer.

(ii) *When employed on a piecework basis for the following operations:*

RATES PER ACRE BY WAGE DISTRICT

| Hand labor operations and methods of cultivation | Wage district I: Michigan, Ohio, Illinois, Indiana, Wisconsin, Minnesota, Iowa, North Dakota (Eastern) | Wage district II: Colorado, Nebraska, South Dakota, Wyoming, Montana (except Western), North Dakota (Western), Utah, Idaho (Southern and Eastern), Kansas, New Mexico, Texas, Nevada (Northern) | Wage district III: Idaho (Western), Oregon (Except Southern), Washington, Montana (Western) |
|---|---|---|---|
| First hoeing completely machine-thinned fields or hoe-thinning only on fields with any type cultivation | $9.00 | $9.50 | $9.00 |
| Hoe and finger thinning partially machine-thinned fields | 11.00 | 11.50 | 11.00 |
| Hoe and finger thinning fields which have not been machine-thinned | 14.00 | 14.50 | 14.00 |
| First hoeing, except completely machine-thinned fields | 5.50 | 6.00 | 7.50 |
| Second and each subsequent hoeing or weeding | 3.50 | 4.00 | 6.00 |

*Combined operations.* A written agreement between the producer and the worker is required in instances where a combined rate for "summer work" is agreed upon. In such case, the rate for "summer work" regardless of the number of hoeings or weedings required, shall be the sum of the applicable thinning, hoeing, and weeding rates specified above. In the absence of a written agreement, the rate for each operation performed by the worker shall be the applicable rate specified above.

*Cross cultivation.* Where cross-cultivation is performed prior to hoeing or weeding, the specified first hoeing rate, other than first hoeing following complete machine-thinning, may be reduced by not more than $1.00 per acre, and the specified subsequent hoeing or weeding rate may be reduced by not more than 50 cents per acre.

*Wide row planting.* The above thinning, hoeing, or weeding rates, adjusted for cross-cultivation where applicable, may be reduced by not more than the indicated percentages for the following row spacings: 28 inches or more but less than 31 inches, 20 percent; 31 inches or more but less than 34 inches, 25 percent; 34 inches or more, 30 percent.

(iii) *When employed on a piecework basis for hand-labor operations not specified or defined or for harvesting.* The piecework rate for any hand-labor operation of thinning, hoeing or weeding not specified above and for the operations of pulling, topping, or loading, shall be as agreed upon between the producer and the worker: *Provided,* That the average hourly rate of earnings paid to each worker for each operation shall be not less than 70 cents per hour for thinning, hoeing, or weeding, and 75 cents per hour for pulling, topping, or loading computed on the basis of the total time each such worker is employed on the farm for that operation.

(iv) *When employed on a time or piecework basis for other operations.* For operating mechanical equipment, irrigating, and all other operations in the production, cultivation, or harvesting of sugar beets for which a rate is not specified herein, the rate shall be as agreed upon between the producer and the worker.

(2) *Compensable working time.* For work performed under subparagraph (1) of this paragraph, compensable working time includes all time which the worker spends in the performance of his duties except time taken out for meals during the work day. Compensable working time commences at the time the worker is required to start work in the field and ends upon completion of work in the field. However, if the producer requires the operator of mechanical equipment, driver of animals or any other class of worker to report to a place other than the field, such as an assembly point, stable, tractor shed, etc., located on the farm, the time spent in transit from such place to the field and from the field to such place is compensable working time. Any time spent in performing work directly related to the principal work performed by the worker such as servicing equipment, is compensable working time. Time of the worker while being transported from a central recruiting point or labor camp to the farm is not compensable working time.

(b) *Applicability.* The requirements of this determination are applicable to all persons employed on the farm, except as provided in paragraph (c) of this section, in the production, cultivation, or harvesting of sugar beets grown on the farm for the extraction of sugar or liquid sugar: *Provided,* That such requirements shall not apply to any person engaged in such work with respect to sugar beets grown on the acreage in excess of the proportionate share for the farm, which are marketed (or processed) for the production of sugar or liquid sugar for livestock feed or for the production of livestock feed, if the producer furnishes to the appropriate County Agricultural Stabilization and Conservation Committee acceptable and adequate proof which satisfies the Committee that the work performed was related solely to such sugar beets.

(c) *Workers not covered.* The requirements of this determination are not applicable to workers performing services which are indirectly connected with the production, cultivation, or harvesting of sugar beets, including, but not limited to mechanics, welders, and other maintenance workers and repairmen.

(d) *Proof of compliance.* The producer shall furnish upon request to the appropriate Agricultural Stabilization and Conservation County Committee acceptable and adequate proof which satisfies the Committee that all workers have been paid in accordance with the requirements of this determination.

(e) *Subterfuge.* The producer shall not reduce the wage rates to workers below those determined herein through any subterfuge or device whatsoever.

(f) *Claim for unpaid wages.* Any person who believes he has not been paid in accordance with this determination may file a wage claim with the Agricultural Stabilization and Conservation County Office against the producer on whose farm the work was performed. Detailed instructions and wage claim forms are available at the County Office. Such claim must be filed within two years from the date the work with respect to which the claim is made was performed. Upon receipt of a wage claim the County Office shall thereupon notify the producer against whom the claim is made concerning the representation made by the worker. The County ASC Committee shall arrange for such investigation as it deems necessary and the producer and worker shall be notified in writing of its recommendation for settlement of the claim. If either party is not satisfied with the recommended settlement, an appeal may be made to the State Agricultural Stabilization and Conservation Office. The address of the State Office will be furnished by the local County Office. Upon receipt of the appeal the State Committee shall likewise consider the facts and notify the producer and worker in writing of its recommendation for settlement of the claim. If the recommendation of the State Committee is not acceptable, either party may file an appeal with the Director of the Sugar Division, Commodity Stabilization Service, U.S. Department of Agriculture, Washington 25, D.C. All such appeals shall be filed within 15 days after receipt of the recommended settlement of the respective committee, otherwise such recommended settlement will be applied in making payments under the act. If a claim is appealed to the Director of the Sugar Division, his decision shall be binding on all parties insofar as payments under the act are concerned.

STATEMENT OF BASES AND CONSIDERATIONS

(a) *General.* The foregoing determination provides fair and reasonable wage rates to be paid for work performed by persons employed on the farm in the production, cultivation, or harvesting of the 1959 crop of sugar beets in regions other than the State of California, southern Oregon, and western Nevada as one of the conditions with which producers must comply to be eligible for payments under the act.

(b) *Requirements of the act and standards employed.* Section 301(c)(1) of the act requires that all persons employed on the farm in the production, cultivation, or harvesting of sugar beets with respect to which an application for payment is made, shall have been paid in full for all such work, and shall have

been paid wages therefor at rates not less than those that may be determined by the Secretary to be fair and reasonable after investigation and due notice and opportunity for public hearing; and in making such determination the Secretary shall take into consideration the standards therefor formerly established by him under the Agricultural Adjustment Act, as amended (i.e., cost of living, prices of sugar and by-products, income from sugar beets, and cost of production); and the differences in conditions among various sugar-producing areas.

(c) *1959 wage determination.* This determination continues the wage rate and other provisions of the 1958 wage determination.

A public hearing was held in Detroit, Michigan; Fargo, North Dakota; Greeley, Colorado; and Salt Lake City, Utah, during the period January 21 through January 28, 1959. Interested persons were afforded the opportunity to testify with respect to fair and reasonable wage rates for work performed by field workers on the 1959 crop of sugar beets. Producer representatives in each region recommended that the wage rates of the 1958 determination be continued for the 1959 crop. A representative of workers recommended at the hearing in one region that 1959 determination wage rates be increased substantially over those specified in 1958.

At Detroit, Michigan, representatives of producers testified that the wage rates provided in labor contracts used in the region were higher than those specified in the 1958 determination; that higher rates were paid to permit greater flexibility in recruiting labor for seasonal labor needs; and that in a survey of their normal labor supply area they found no conditions to indicate that an increase in wages of the determination would produce more workers. The Assistant Director of the AFL–CIO, Region 11, recommended that wages paid to migratory workers be not less than the minimum hourly rates paid by the sugar beet processing plants which averaged in 1958 about $1.43 per hour. Producer representatives at Fargo, North Dakota pointed out that although wage rates had not been increased the earnings of workers had increased in recent years because of improvements in cultural practices; that the 1958 wage determination rates were paid in most areas, except that in some cases higher rates were paid for machine thinned fields and fields which were very weedy; and that present wage rates were high enough to attract an adequate supply of labor. Producer representatives at Greeley, Colorado stated that mechanization had greatly increased the productivity of labor and efficiency of beet production and that labor had benefited more from those efficiencies than have producers; that in 1958 beet workers were paid the rates specified in the determination, except when field conditions were poor in which case higher rates were paid; that the earnings of labor on well-administered farms greatly exceeded the hourly minimums provided in the determination; and that the incentive provided by piecework rates is an important factor. Representatives of producers at Salt Lake City, Utah stated that beet workers have benefited from improved cultivation and mechanical weeding which have been practiced by producers in recent years; and that piecework rates paid labor ranged from the minimums specified in the determination to substantially higher levels depending on field and other conditions.

Consideration has been given to the recommendations made at the public hearing, to the standards customarily considered in wage determinations, to information obtained by investigation and to other pertinent factors. Data obtained by field cost survey for a recent crop covering the returns, costs, and profits of sugar beet production have been recast in terms of conditions likely to prevail for the 1959 crop. Analysis of all factors indicates that the wage rates of this determination are fair and reasonable under prospective conditions.

The recommendation of a representative of workers in the eastern sugar beet area that field workers be paid at rates not less than the minimum hourly rates paid to workers in the beet processing plants has not been adopted. Analysis of pertinent data indicates that such an increase would be substantially above the producer's ability to pay.

Most thinning, hoeing, and weeding work in the sugar beet area is contracted on a piecework basis. The average earnings of workers employed at the minimum rates specified in the determination range between 70 cents and $1.00 per hour based upon studies of man-hour requirements for the hand labor operations. Producers in many regions pay piecework rates substantially higher than the minimums depending upon field conditions and other factors. Improvements in cultural practices on the farm have tended to increase both the hourly and seasonal earnings of workers.

I hereby find and conclude that the foregoing wage determination will effectuate the wage provisions of the Sugar Act of 1948, as amended.

(Sec. 403, 61 Stat. 932; 7 U.S.C. 1153. Interprets or applies sec. 301, 61 Stat. 929 as amended; 7 U.S.C. 1131)

Issued this 21st day of April 1959.

[SEAL] TRUE D. MORSE,
*Acting Secretary.*

[F.R. Doc. 59-3523; Filed, Apr. 24, 1959; 8:49 a.m.]

## Chapter IX—Agricultural Marketing Service (Marketing Agreements and Orders), Department of Agriculture

[Valencia Orange Reg. 161, Amdt. 1]

## PART 922 — VALENCIA ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

### Limitation of Handling

*Findings.* (1) Pursuant to the marketing agreement and Order No. 22, as amended (7 CFR Part 922), regulating the handling of Valencia oranges grown in Arizona and designated part of California, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.; 68 Stat. 906, 1047), and upon the basis of the recommendations and information submitted by the Valencia Orange Administrative Committee, established under the said marketing agreement and order, as amended, and upon other available information, it is hereby found that the limitation of handling of such Valencia oranges, as hereinafter provided, will tend to effectuate the declared policy of the act by tending to establish and maintain such orderly marketing conditions for such oranges as will provide, in the interests of producers and consumers, an orderly flow of the supply thereof to market throughout the normal marketing season to avoid unreasonable fluctuations effective date of this amendment until 30 days after publication hereof in the FEDERAL REGISTER (60 Stat. 237; 5 U.S.C. 1001 et seq.) because the time intervening between the date when information upon which this amendment is based became available and the time when this amendment must become effective in order to effectuate the declared policy of the act is insufficient, and this amendment relieves restriction on the handling of Valencia oranges grown in Arizona and designated part of California.

*Order, as amended.* The provisions in paragraph (b)(1)(i) of § 922.461 (Valencia Orange Regulation 161, 24 F.R. 2975) are hereby amended to read as follows:

(i) District 1: 323,400 cartons.

(Sec. 5, 49 Stat. 753, as amended; 7 U.S.C. 608c)

Dated: April 22, 1959.

[SEAL] S. R. SMITH,
*Director, Fruit and Vegetable Division, Agricultural Marketing Service.*

[F.R. Doc. 59-3522; Filed, Apr. 24, 1959; 8:49 a.m.]

[Valencia Orange Reg. 162]

## PART 922 — VALENCIA ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

### Limitation of Handling

§ 922.462 Valencia Orange Regulation 162.

(a) *Findings.* (1) Pursuant to the marketing agreement and Order No. 22, as amended (7 CFR Part 922), regulating the handling of Valencia oranges grown in Arizona and designated part of California, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.; 68 Stat. 906, 1047), and upon the basis of the recommendations and information submitted by the Valencia Orange Administrative Committee, established under the said marketing agreement and order, as amended, and upon other available

information, it is hereby found that the limitation of handling of such Valencia oranges as hereinafter provided will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this section until 30 days after publication hereof in the FEDERAL REGISTER (60 Stat. 237; 5 U.S.C. 1001 et seq.) because the time intervening between the date when information upon which this section is based became available and the time when this section must become effective in order to effectuate the declared policy of the act is insufficient, and a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. The committee held an open meeting during the current week, after giving due notice thereof, to consider supply and market conditions for Valencia oranges and the need for regulation; interested persons were afforded an opportunity to submit information and views at this meeting; the recommendation and supporting information for regulation during the period specified herein were promptly submitted to the Department after such meeting was held; the provisions of this section, including its effective time, are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such Valencia oranges; it is necessary, in order to effectuate the declared policy of the act, to make this section effective during the period herein specified; and compliance with this section will not require any special preparation on the part of persons subject hereto which cannot be completed on or before the effective date hereof. Such committee meeting was held on April 23, 1959.

(b) *Order.* (1) The respective quantities of Valencia oranges grown in Arizona and designated part of California which may be handled during the period beginning at 12:01 a.m., P.s.t., April 26, 1959, and ending at 12:01 a.m., P.s.t., May 3, 1959, are hereby fixed as follows:

(i) District 1: 415,800 cartons;

(ii) District 2: 323,400 cartons;

(iii) District 3: Unlimited movement.

(2) All Valencia oranges handled during the period specified in this section are subject also to all applicable size restrictions which are in effect pursuant to this part during such period.

(3) As used in this section, "handled," "handler," "District 1," "District 2," "District 3," and "carton" have the same meaning as when used in said marketing agreement and order, as amended.

(Sec. 5, 49 Stat. 753, as amended; 7 U.S.C. 608c)

Dated: April 24, 1959.

[SEAL] S. R. SMITH,
*Director, Fruit and Vegetable Division, Agricultural Marketing Service.*

[F.R. Doc. 59-3597; Filed, Apr. 24, 1959; 11:33 a.m.]

[Lemon Reg. 789]

## PART 953—LEMONS GROWN IN CALIFORNIA AND ARIZONA

### Limitation of Handling

§ 953.896 Lemon Regulation 789.

(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 53, as amended (7 CFR Part 953; 23 F.R. 9053), regulating the handling of lemons grown in California and Arizona, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.; 68 Stat. 906, 1047), and upon the basis of the recommendation and information submitted by the Lemon Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such lemons as hereinafter provided will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this section until 30 days after publication hereof in the FEDERAL REGISTER (60 Stat. 237; 5 U.S.C. 1001 et seq.) because the time intervening between the date when information upon which this section is based became available and the time when this section must become effective in order to effectuate the declared policy of the act is insufficient, and a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. The Committee held an open meeting during the current week, after giving due notice thereof, to consider supply and market conditions for lemons and the need for regulation; interested persons were afforded an opportunity to submit information and views at this meeting; the recommendation and supporting information for regulation during the period specified herein were promptly submitted to the Department after such meeting was held; the provisions of this section, including its effective time, are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such lemons; it is necessary, in order to effectuate the declared policy of the act, to make this section effective during the period herein specified; and compliance with this section will not require any special preparation on the part of persons subject hereto which cannot be completed on or before the effective date hereof. Such committee meeting was held on April 22, 1959.

(b) *Order.* (1) The respective quantities of lemons grown in California and Arizona which may be handled during the period beginning at 12:01 a.m., P.s.t., April 26, 1959, and ending at 12:01 a.m., P.s.t., May 3, 1959, are hereby fixed as follows:

(i) District 1: Unlimited movement;

(ii) District 2: 348,750 cartons;

(iii) District 3: Unlimited movement.

(2) As used in this section, "handled," "District 1," "District 2," "District 3," and "carton" have the same meaning as when used in the said amended marketing agreement and order.

(Sec. 5, 49 Stat. 753, as amended; 7 U.S.C. 608c)

Dated: April 23, 1959.

[SEAL] S. R. SMITH,
*Director, Fruit and Vegetable Division, Agricultural Marketing Service.*

[F.R. Doc. 59-3575; Filed, Apr. 24, 1959; 9:34 a.m.]

# Title 29—LABOR

## Chapter V—Wage and Hour Division, Department of Labor

## PART 516—RECORDS TO BE KEPT BY EMPLOYERS

### Miscellaneous Amendments

The Administrator of the Wage and Hour and Public Contracts Divisions has previously issued regulations (29 CFR Part 516) governing the preservation of records by employers under the Fair Labor Standards Act of 1938 (52 Stat. 1060, as amended; 29 U.S.C. 201 et seq). The regulations contain examples of records to be kept in the form of illustrative hourly, daily, weekly, and monthly wage rates. Although this matter is illustrative only, it is now inconsistent with the statutory minimum wage, and salary tests for certain exempt employees under other regulations. To avoid misconception of the actual wages required under the Fair Labor Standards Act, and regulations implementing that Act, the illustrative material in this Part 516, is changed by this amendment.

Therefore, in accordance with section 4 of the Administrative Procedure Act (60 Stat. 238; 5 U.S.C. 1003), and under the authority of section 11 of the Fair Labor Standards Act of 1938 (52 Stat. 1066, as amended; 29 U.S.C. 211), Reorganization Plan No. 6 of 1950 (3 CFR 1950 Supp., p. 165), and General Order No. 45–A (15 F.R. 3290), 29 CFR, Part 516 is hereby amended as follows.

1. Subdivision (ii), subparagraph (6), paragraph (a) of § 516.2 is hereby amended to read as follows:

(ii) Basis on which wages are paid (such as "$1.30 hr."; "$10 day"; "$50 wk."), and

2. Subparagraph (1), paragraph (a), of § 516.3 is hereby amended to read as follows:

(1) Basis on which wages are paid (this may be shown as "$350 mo."; "$95 wk."; or "on fee").

3. Subparagraph (1), paragraph (a) of § 516.14 is hereby amended to read as follows:

(1) Basis on which wages are paid (such as "$1.30 hr."; "$10 day"; "$50 wk.").

(Sec. 11, 52 Stat. 1066, as amended; 29 U.S.C. 211)

These amendments are editorial in character. Therefore public participation, and a 30 day period prior to the effective date are found to be unnecessary. Accordingly the amendment shall take effect on publication in the FEDERAL REGISTER.

Signed at Washington, D.C., this 20th day of April 1959.

CLARENCE T. LUNDQUIST,
*Administrator.*

[F.R. Doc. 59-3513; Filed, Apr. 24, 1959; 8:48 a.m.]

# Title 39—POSTAL SERVICE

## Chapter I—Post Office Department

## PART 22—SECOND CLASS

## PART 62—NON-POSTAL STAMPS AND BONDS

## PART 111—POSTAL UNION MAIL

### Miscellaneous Amendments

Regulations of the Post Office Department are amended as follows:

a. In § 22.1 *Second-class rates,* paragraph (d) as amended by Federal Register Document 58-9233 (23 F.R. 8623), is further amended to read as follows:

(d) *Second-class rates to other countries,* see § 111.2(d)(1)(i)(*b*) of this chapter.

NOTE: The corresponding Postal Manual section is 132.14.

(R.S. 161, as amended, 396, as amended, 398, as amended, 5 U.S.C. 22, 369, 372)

b. In § 62.3 *United States saving stamps,* amend paragraph (b) to read as follows:

(b) *Denominations.* Savings stamps are furnished in sheets in denominations of 10, 25, and 50 cents, and $1 and $5. The 10-cent and 25-cent stamps are also available bound in books. Books of fifty 10-cent savings stamps sell for $5; "gift books" of ten 25-cent stamps for $2.50; and "gift books" of twenty 25-cent stamps for $5. Stamps in these books are not detached and sold separately, but they must be detached and affixed in an album before they may be redeemed at a post office.

NOTE: The corresponding Postal Manual section is 172.32.

(R.S. 161, as amended, 396, as amended, 5 U.S.C. 22, 369)

c. In § 111.2 *Specific categories,* amend subparagraph (1) of paragraph (d) to read as follows:

(1) *Rates.* (i) Surface rates for printed matter to all countries are 4 cents for the first 2 ounces and 2 cents for each additional 2 ounces or fraction of 2 ounces, except as follows:

(*a*) *Books and sheet music.* The rates on permanently bound books having at least 22 printed pages and containing no advertising other than incidental announcements of other books and on printed sheet music are:

(*1*) To Argentina, Bolivia, Brazil, Chile, Colombia, Costa Rica, Cuba, Dominican Republic, Ecuador, Guatemala, Haiti, Republic of Honduras, Mexico, Nicaragua, Panama, Paraguay, Peru, El Salvador, Uruguay, and Venezuela—2 cents for the first 2 ounces and 1 cent for each additional 2 ounces or fraction.

(*2*) To all other countries—3 cents for the first 2 ounces and 1½ cents for each additional 2 ounces or fraction.

(*b*) *Second-class publications.* The rates on publications entered as second class, when mailed by the publishers or by registered news agents, are:

(*1*) To Canada—

| | Jan. 1, 1959 | Jan. 1, 1960 | Jan. 1, 1961 |
|---|---|---|---|
| Nonadvertising portion (per pound) | *Cents* 2.1 | *Cents* 2.3 | *Cents* 2.5 |
| Advertising portion (per pound) | 7.7 | 8.7 | 10.0 |
| Minimum rate per copy | ¼ | ⅜ | ½ |

NOTE: No separate rates are provided for nonprofit publications or for classroom publications, and the key rate method of computing postage on the advertising portion may not be used. The rate of 4 cents for the first 2 ounces and 2 cents for each additional 2 ounces or fraction applies to copies not entitled to the pound rates.

(2) To PUAS countries (see § 101.2 of this chapter) other than Canada—2 cents for the first 2 ounces and 1 cent for each additional 2 ounces; except that the rates for special rate publications, as described in § 22.1(b)(2) of this chapter are:

| | Jan. 1 1959 | Jan. 1, 1960 | Jan. 1, 1961 |
|---|---|---|---|
| | *Cent* | *Cent* | *Cent* |
| First 2 ounces | ½ | 1 | 2 |
| Each additional 2 ounces | ½ | 1 | 1 |

(*3*) To all other countries—3 cents for the first 2 ounces and 1½ cents for each additional 2 ounces or fraction.

(*c*) *Raised print for the blind.* See paragraph (e) of this section.

(ii) For Airmail rates see individual country items in § 168.5 of this chapter.

NOTE: The corresponding Postal Manual section is 221.241.

(R.S. 161, as amended, 396, as amended, 398, as amended, 5 U.S.C. 22, 369, 372)

[SEAL] HERBERT B. WARBURTON,
*General Counsel.*

[F.R. Doc. 59-3514; Filed, Apr. 24, 1959; 8:48 a.m.]

# Title 45—PUBLIC WELFARE

## Chapter I—Office of Education, Department of Health, Education, and Welfare

## PART 144—NATIONAL DEFENSE STUDENT LOAN PROGRAM

Part 144 establishes regulations for the administration of the National Defense Student Loan Program pursuant to title II of the National Defense Education Act of 1958, 72 Stat. 1580, 20 U.S.C. §§ 421-429. The provisions of these regulations were approved in substantially their present form by the Commissioner of Education, Department of Health, Education, and Welfare, on January 31, 1959, and agreements pursuant to section 204 of the National Defense Education Act were concluded and funds distributed (pursuant to the notice published in the FEDERAL REGISTER on December 13, 1958 (23 F.R. 9675)), under the terms and conditions set forth in this part.

Part 144 reads as follows:

Sec.


AUTHORITY: §§ 144.1 to 144.30 issued under §§ 201 to 209, 72 Stat. 1583; 20 U.S.C. §§ 421-429.

### § 144.1 Policy and purposes of the National Defense Student Loan Fund Program.

The National Defense Education Act of 1958, Public Law 85-864, affirmed the need to indentify and educate more of the Nation's talented young men and women, and to develop programs through which the fullest development of their mental resources and technical skills may be realized. Title II of the Act initiates the National Defense Student Loan Program, under which National Defense Student Loan Funds will be established at participating institutions of higher education throughout the United States for the purpose of making long-term, low-interest loans to qualified students who are in need of such financial assistance in order to pursue a full-time course of study at such institutions. The Program includes provisions designed to encourage education in science, mathematics, engineering and modern foreign languages. The Program also includes provisions designed to attract an additional number of superior students to the teaching profession for service at the elementary and secondary school levels.

### § 144.2 Definitions.

(a) *The Act.* "The Act" means the National Defense Education Act of 1958, Public Law 85-864, 20 U.S.C. Chap. 17.

(b) *Institution of higher education.* "Institution of higher education" or "institution" means an educational institution in any State which meets the requirements set forth in section 103(b) of the Act. The term "educational institu-

tion" limits the scope of this definition to establishments at which teaching is conducted and which have an identity of their own. The separate identity of such establishments is generally reflected by their being incorporated or chartered for such purposes in their own right, or by their receiving a separate listing in Part III of the Office of Education "Education Directory."

(c) *Public.* The term "public" as applied to any school or institution does not include a school or institution of any agency of the United States.

(d) *Nonprofit.* The term "nonprofit" as applied to an institution of higher education means that such institution is owned and operated by one or more nonprofit corporations or associations, no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual.

(e) *Bachelor's degree.* "Bachelor's degree" means a degree which requires completion by the recipient of a total of not less than the equivalent of four years of academic study at the college (including graduate and professional school) level.

(f) *Institutional application to participate in the National Defense Student Loan Program.* An "institutional application to participate in the National Defense Student Loan Program" consists of

(1) A proposed agreement between the Commissioner and the institution pursuant to section 204 of the Act for payment of Federal capital contributions into a National Defense Student Loan Fund at such institution;

(2) An application in such form as the Commissioner may require, for a Federal capital contribution pursuant to section 203 of the Act; and

(3) If the institution's capital contribution is to be financed in whole or in part through a Federal institutional loan, an application in such form as the Commissioner may require, for a Federal institutional loan.

(g) *National Defense Student Loan Fund.* "National Defense Student Loan Fund" or "Fund" means the fund established pursuant to section 204 of the Act at an institution with which the Commissioner has executed an agreement, such fund being composed of Federal capital contributions, institutional capital contributions, repayments of capital and interest and any other earnings of the fund.

(h) *Federal capital contribution.* "Federal capital contribution" means the capital portion contributed by the Commissioner to a National Defense Student Loan Fund pursuant to section 203 of the Act.

(i) *Federal institutional loan.* "Federal institutional loan" means a loan made by the Federal Government pursuant to section 207 of the Act to an institution, the proceeds of which are to be deposited by such institution in its National Defense Student Loan Fund.

(j) *Institutional capital contribution.* "Institutional capital contribution" means the money deposited into a National Defense Student Loan Fund by the institution in an amount not less than one-ninth of the Federal capital contributions thereto.

(k) *National of the United States.* "National of the United States" means (1) a citizen of the United States or (2) a person who though not a citizen of the United States owes permanent allegiance to the United States (8 U.S.C.A. 1101(a)(22)).

(l) *Full-time student.* "Full-time student" and "student enrolled on a full-time-basis" means a student who is enrolled in a sufficient number of credit hours or their equivalent to secure the degree or certificate toward which he is working, in no more than the number of semesters or terms normally taken therefor at the institution where he is enrolled, including a student who, having satisfactorily completed the course requirements for a degree, is determined in writing by a responsible official of the institution (1) to be devoting full time to completion of a requisite dissertation, thesis, or project, and (2) to be making normal progress towards its completion and the award of the degree.

(m) *Full-time attendance.* "Full-time attendance" means compliance by a full-time student with the policies and regulations regarding attendance in effect at the institution in which he is enrolled.

(n) *Satisfactory standing, good standing.* The terms "satisfactory standing" and "good standing" mean the eligibility of a student to continue in attendance at the institution where he is enrolled as a full-time student in accordance with the institution's standards and practices.

(o) *Full-time teacher.* "Full-time teacher" for the purpose of section 205(b)(3) of the Act means a person who is professionally employed on a full-time basis, and regularly engaged in carrying out the instructional program of a public elementary or secondary school. While the definition includes classroom teachers and their supervisors, its tests may also be met in many cases by other personnel such as school librarians and guidance counselors.

(p) *Elementary or secondary school.* "Elementary or secondary school" means a school which provides elementary or secondary education at grade 12 or below as determined under State law.

(q) *Academic year.* For the purposes of section 205(b)(3) of the Act, the term "academic year" means the period of the annual session exclusive of the summer session.

(r) *Fiscal year.* "Fiscal year" means the Federal fiscal year commencing in the first day of July and ending on the 30th day of June.

(s) *Modern foreign language.* "Modern foreign language" means a language, other than English, which is in current use as a common medium of communication by some substantial segment of the world population.

(t) *Science.* "Science" includes physical and biological sciences, but does not include the social sciences.

(u) *Permanently and totally disabled.* "Permanently and totally disabled" means the inability to engage in any substantial gainful activity because of a medically determinable impairment, which impairment is expected to continue for a long and indefinite period of time, or to result in death, such disability to be determined on the basis of the report of a physician on such forms as the Commissioner may prescribe.

### § 144.3 Nationally recognized accrediting agencies and associations.

Pursuant to and for the purposes of section 103(b) of the Act, the Commissioner has determined that the following organizations are "nationally recognized accrediting agencies and associations," and are reliable authorities as to the quality of training offered by institutions of higher education.

Accrediting Association of Bible Institutes and Bible Colleges.
Accrediting Commission for Business Schools.
American Association of Collegiate Schools of Business.
American Association of Nurse Anesthetists.
American Association of Schools of Religious Education.
American Association of Theological Schools.
American Bar Association.
American Council on Education for Journalism.
American Council on Pharmaceutical Education.
American Osteopathic Association.
American Podiatry Association.
American Public Health Association.
Board of Education for Librarianship of the American Library Association.
Commission on Accreditation of the Council on Social Work Education.
Committee on Professional Training of the American Chemical Society.
Council on Dental Education of the American Dental Association.
Council on Education and Professional Guidance of the American Optometric Association.
Council on Education of the American Veterinary Medical Association.
Engineers Council for Professional Development.
Liaison Committee on Medical Education.
Middle States Association of Colleges and Secondary Schools.
National Architectural Accrediting Board.
National Association of Schools of Music.
National Council for Accreditation of Teacher Education.
National Nursing Accrediting Service.
New England Association of Colleges and Secondary Schools.
New York Board of Regents (for higher institutions within New York State).
North Central Association of Colleges and Secondary Schools.
Northwest Association of Secondary and Higher Schools.
Society of American Foresters.
Southern Association of Colleges and Secondary Schools.
Western College Association.

### § 144.4 Allotments of Federal capital contributions to States.

(a) *Enrollment on full-time basis.* From sums appropriated for Federal capital contributions for any fiscal year ending prior to July 1, 1962, the Commissioner shall allot to each State an amount which bears the same ratio to the amount so appropriated pursuant to section 201 of the Act, as the number of persons enrolled on a full-time basis in institutions in each of such States bears to the total number of persons enrolled on a full-time basis in institutions in all of the States. For the purposes of this paragraph, the number of persons enrolled on a full-time basis in institutions shall be determined by the Commissioner

for the most recent year for which satisfactory data are available to him.

(b) *Reallotment.* In the event that the allotment for Federal capital contributions made to a State under paragraph (a) of this section exceeds the total Federal capital contributions made to the institutions within such State, for a given fiscal year, the unused portion of such allotment may be reallotted from time to time, on such date or dates as the Commissioner may fix, to other States in proportion to the original allotments to such States for such fiscal year, except that such reallotments shall be made only (1) to the States in which allotments are insufficient to meet the requests for Federal capital contributions which have been reviewed and approved by the Commissioner in accordance with § 144.5(a) (3) and (2) to the extent necessary to meet such requests in any such State.

**§ 144.5 Institutional application to participate in the National Defense Student Loan Program.**

(a) *Applications for Federal capital contributions.* (1) Applications for Federal capital contributions shall be filed by institutions in such form and manner as may be prescribed by the Commissioner.

(2) The Commissioner shall from time to time issue a notice setting a date by which an institution must file the application in order to be eligible to receive a Federal capital contribution for the period stated in such notice.

(3) The amount requested in each application for a Federal capital contribution shall be reviewed and approved by the Commissioner for the purposes of section 203(a) of the Act in the light of the demands which may reasonably be expected to be made upon the Fund during the period covered by the application after taking into consideration the balance in the Fund. When necessary to this end the Commissioner may require the submittal of additional data.

(b) *Application for Federal institutional loan.* (1) Each application for a Federal institutional loan shall include a statement of supporting data on which there shall be provided such information as the Commissioner may require (including information relative to the terms and conditions under which such funds are available from non-Federal sources) in order to make the necessary determinations under section 207(a) of the Act.

(2) The amount requested in each application for a Federal institutional loan shall be reviewed and approved by the Commissioner in the light of the requirements of section 207(a) of the Act and the amount of the Federal capital contribution that has been reviewed and approved in accordance with paragraph (a)(3) of this section.

(c) *Agreement for Federal capital contributions.* (1) The institutional application to participate in the National Defense Student Loan Program shall also include a proposed agreement, signed by an authorized representative of the applicant institution, which shall be submitted for consideration and concurrence by the Commissioner.

(2) No application for a Federal capital contribution or for a Federal institutional loan shall be approved unless there is in effect an agreement between the Commissioner and the applicant institution for Federal capital contributions pursuant to section 204 of the Act.

**§ 144.6 Federal Institutional Loan agreements.**

Federal Institutional Loans shall be made subject to the terms of a note which shall be executed by an official who is duly authorized to execute such notes on behalf of the borrowing institution. Such loans shall be used only for institutional capital contributions to the borrower's National Defense Student Loan Fund. Each such note shall include such terms with respect to the payment of interest and repayment of capital as are not inconsistent with section 207(a) of the Act and shall include such other terms which the Commissioner finds necessary to protect the financial interests of the United States and to promote the purposes of the Act.

**§ 144.7 Allocation and payment of Federal capital contributions and Federal Institutional Loans.**

(a) *Allocation of Federal Capital Contributions to Institutions.* (1) Federal capital contributions will be offered to institutions within a State in relation to the amount of the requests for Federal capital contributions that have been reviewed and approved in accordance with § 144.5(a)(3), except that the total of such capital contributions to any institutions for any fiscal year shall not exceed $250,000. In the event that the total of such requested amounts in all the applications for Federal capital contributions from a State exceeds that State's current allotment therefor, the amount of the Federal capital contribution that can be made available to any applicant institution from that allotment shall bear the same ratio to such requested amount as the amount of the State's allotment bears to the total of such requested amounts within the State.

(2) In the event that an institution which has applied for a Federal institutional loan is unable to secure the necessary amount of loan funds from the Commissioner or otherwise to secure such funds as may be required in order to make the necessary institutional capital contribution, the amount of the Federal capital contribution which could have been offered to such institution pursuant to subparagraph (1) of this paragraph shall be reduced to an amount equal to not more than nine times the amount of such institutional capital contribution as the institution is able to make to the Fund.

(3) If an institution fails to accept all of the Federal capital contributions that have been offered to it, the amount represented by such unaccepted offer shall be restored as a part of the State's allotment.

(4) When funds that have been restored as a part of a State's allotment are sufficient to increase significantly the amount of the Federal capital contribution that can be made available to other institutions within the State, they shall be offered to such institutions whose requests for Federal capital contributions were reduced pursuant to subparagraphs (1) and (2) of this paragraph.

(b) *Allocation of Federal institutional loans.* (1) Federal institutional loans shall be made by the Commissioner upon the basis of his review of the data that is provided to him in the application for a Federal institutional loan.

(2) In the event that the funds available for the purpose of making Federal institutional loans are insufficient to satisfy the requests to which institutions would otherwise be entitled in accordance with § 144.5(b)(2), the Commissioner shall allocate such available funds among all of such requests therefor in the same ratio as the amount of each such request bears to the sums of the amounts of all such requests.

(3) If an institution fails to accept all of the funds that would otherwise be loaned to it, the Commissioner shall reallocate such unaccepted funds to other institutions if the amount of such funds is sufficient to increase significantly the size of the loans to such other institutions.

(c) *Payments of Federal capital contributions and institutional loans.* Payment of the Federal capital contributions and institutional loans shall be made in such amounts and at such times as the Commissioner shall designate.

**§ 144.8 Eligibility and selection of loan recipients.**

(a) *Eligibility; in general.* Loans shall be made only to a student who (1) is a national of the United States or is in the United States for other than a temporary purpose and intends to become a permanent resident thereof; (2) is in need of the amount of the loan to pursue a course of study on a full-time basis as a graduate or undergraduate student at the institution; (3) is capable, in the opinion of the institution, of maintaining good standing in such course of study; and (4) has been accepted for enrollment as a full-time student at such institution or, in the case of a student already attending such institution, is in good standing and in full-time attendance at such institution.

(b) *Determination of need.* In determining a student's need for a loan from the Fund, the institution shall take into consideration (1) the income, assets, and resources of the applicant, (2) the income, assets, and resources of the applicant's family, and (3) the cost reasonably necessary for the student's attendance at the institution, including any special needs and obligations which directly affect the student's financial ability to attend such institution on a full-time basis. All determinations of need shall be made in accordance with the policies and procedures established by the institution and made a part of the agreement for Federal capital contributions.

(c) *Limitations governing maximum amount of loans.* The total of the loans from any Fund or Funds for any fiscal year to any student may not exceed $1,000 or the amount of such student's financial need, whichever is the lesser;

and, the total for all years to any student may not exceed $5,000.

(d) *Selection; in general.* Loans from the Fund shall be made reasonably available (to the extent permitted by the Fund and subject to the provisions of section 204(4) of the Act) to all eligible applicants. In the event applications exceed available funds, the order of selection shall be made on the basis of objective criteria established by the institution and made a part of the agreement for Federal capital contributions.

(e) *Selection; non-discrimination.* No eligible applicant shall be denied a student loan from the Fund on account of sex, race, creed, color, or national origin.

(f) *Selection; special considerations.* In the selection of students to receive loans from the Fund, special consideration shall be given to students with superior academic backgrounds who express a desire to teach in elementary or secondary schools, and to students whose academic background indicates a superior preparation in science, mathematics, engineering, or modern foreign language.

(g) *Records of approval or disapproval.* The records of the institution shall indicate the basis of approval or disapproval of all or any part of each student application for a loan.

**§ 144.9 Advancement and repayment of loans.**

(a) *Evidence of indebtedness; note.* The note which shall be executed by a student-borrower shall be in such form as to meet the requirements of section 205(b) of the Act. Such requirements are met by the promissory note form set out in § 144.30. Except for a provision reflecting an institution's election to require security or endorsement in cases permitted under subparagraph (b) of this section, any substantive deviations from the promissory note form set out in § 144.30 shall be made only pursuant to approval by the Commissioner prior to the making of any loans to be evidenced thereby. A copy of every executed note shall be supplied to the student maker thereof.

(b) *Security.* Neither security nor endorsement may be required except that, if the borrower is a minor and if under the State law the note executed by him would not create a binding obligation, the institution is permitted to require security or endorsement.

(c) *Repayment.* Loans to student-borrowers, together with interest thereon, shall be repaid in ten equal annual installments unless the borrower has elected to repay in graduated periodic installments in accordance with such schedules as may be approved by the Commissioner for that purpose. Each student-borrower may choose (from those in use by the institution and approved by the Commissioner) the schedule which he prefers at any time prior to the date at which he ceases to be a full-time student at the institution from whose Fund such loan is made, but a student-borrower may at his option and without penalty prepay all or any part of the principal and accrued interest at any time.

(d) *Revision of repayment schedule.* In the event that a student who has borrowed from the Fund is unable, due to extraordinary circumstances, to comply with his obligations in regard thereto, he may make application to the institution to whose Fund he is indebted for revision of his schedule of repayment. Such application shall be reviewed by the institution for determination as to appropriate action to be taken and, where the action taken by the institution involves an extension beyond the ten-year period pursuant to section 205(b)(2)(C) of the Act, such action shall be reported to the Commissioner.

**§ 144.10 Oath and affidavit.**

In conformity with section 1001(f) of the Act, loans from a Fund may not be made available to a student-borrower until the institution has secured for filing with the Commissioner and has mailed to him the following duly executed oath and affidavit on a form prescribed by the Commissioner:

I, _____,
(Type or print full name of applicant)

do solemnly swear (or affirm) that I will bear true faith and allegiance to the United States of America and will support and defend the Constitution and laws of the United States of America against all its enemies, foreign and domestic.

I, the above-named, do solemnly swear (or affirm) that I do not believe in, and am not a member of and do not support any organization that believes in or teaches, the overthrow of the United States Government by force or violence or by any illegal or unconstitutional methods.

I hereby authorize and cause this affidavit to be filed with the United States Commissioner of Education, in conformity with section 1001(f) of the National Defense Education Act of 1958, and certify that the statements made by me herein are true to the best of my knowledge and belief.

**§ 144.11 Provisions for loan cancellations.**

(a) *Full-time teaching.* The determination as to whether or not a student-borrower is entitled to have any portion of his loan cancelled for service as a full-time teacher in a public elementary or secondary school within a State, in accordance with section 205(b)(3) of the Act, shall be made by the institution to whose Fund such loan is payable upon receipt and evaluation of an application for cancellation from such student.

(b) *Permanent and total disability.* Determinations (based on medical evidence supplied by the borrower) as to whether or not a student is entitled to a cancellation of indebtedness in accordance with section 205(b)(6) of the Act on the basis of permanent and total disability shall be made by the institution to whose Fund the borrower is indebted, subject to approval of the Commissioner.

(c) *Death.* The determination as to whether or not a student is entitled to a cancellation of indebtedness in accordance with section 205(b)(6) of the Act because of the death of the borrower shall be made by the institution to whose Fund the borrower is indebted on the basis of a certificate of death or such other official proof as is conclusive under State law.

**§ 144.12 Fiscal.**

(a) *In general.* The Fund shall be deposited and carried in a special account of the institution, which shall be used only for loans to students, for capital distributions as provided in section 206 of the Act and for the cost of litigation arising in connection with the collection of any obligation to the Fund and interest thereon. There shall be in the Fund at all times monies representing the institutional capital contribution equal to one-ninth of the amount of the balance of the Federal capital contributions in such Fund.

(b) *Payment of loans.* (1) Loans from the Fund shall be made to student-borrowers from the Fund in such installments as are deemed appropriate by the institution, except that no borrower may receive more, during a given semester, term or quarter, than he needs for such period. (2) No monies shall be advanced to any student-borrower from the Fund unless at the time of such advancement he is a full-time student. (3) Upon failure of a student-borrower to maintain satisfactory standing, the institution shall withhold any or all further installments of his loan as may be appropriate. Periodic reports (but not less frequently than at the end of the quarter or semester in which the action was taken) of the installments so withheld shall be filed by the institution with the Commissioner.

(c) *Collection of loans.* Each institution at which a Fund is established shall exercise due diligence in the collection of all loans due the Fund.

(d) *Records and reporting.* (1) Each institution shall keep adequate records reflecting all transactions with respect to the Fund. Federal capital contributions and institutional capital contributions shall be separately recorded. Each transaction shall be recorded so as to afford ready identification of each borrower's account and the status thereof. If a fiscal agent is utilized by the institution, its functions must be limited solely to the performance of ministerial acts. The responsibilities of the institution to make determinations relative to the making and collection of loans cannot be delegated. (2) Institutions shall submit such reports and information as the Commissioner may reasonably require in connection with the administration of the Act and shall comply with such provisions as he may find necessary to insure the correctness and verification of such reports. Annual reports of Fund status and transactions shall be forwarded to the Commissioner by each institution within thirty days of the close of each fiscal year.

**§ 144.13 Compliance by institutions.**

If, at any time, after notice and opportunity for hearing, the Commissioner determines (a) that the requirements for an institution's participation in the student loan program are no longer met or (b) that any monies in the Fund or to be deposited therein have been expended for purposes for which the Fund is legally unavailable and such diversions have not been restored, no further Federal capital contributions shall be made to such Fund and no further expendi-

tures shall be permitted to be made from such Fund until there is no longer any failure of such compliance.

**§ 144.14 Preceding provisions not exhaustive of jurisdiction of the Commissioner.**

No provision of this part now or hereafter promulgated shall be deemed exhaustive of the jurisdiction of the Commissioner under the Act. The provisions of this part may be modified or further regulations may be issued hereafter as circumstances may warrant.

PROMISSORY NOTE

**§ 144.30 Promissory note.**

The following promissory note form, referred to in § 144.9(a), meets the requirements of section 205(b) of the Act:

---

(City and State)

I, _____, hereinafter called the maker, promise to pay to _____,
(Name of institution)
hereinafter called the Institution, located at _____, the sum of $_____ or so much thereof as may from time to time be advanced to me and endorsed hereon.

The maker further understands and agrees, and it is understood between the parties that:

I. Repayment of such principal, together with accrued interest thereon, shall be made over a ten-year repayment period, commencing (except when Paragraph III (2) applies) one year after the maker ceases to be a full-time student in an institution of higher education (as defined in the National Defense Education Act of 1958, and the Federal Regulations pertaining thereto) and ending eleven years after such date. Interest, at the rate of three per centum per annum, shall accrue from the beginning of such repayment period. Repayment of principal, together with accrued interest thereon, shall be made in ten equal annual installments commencing not later than the end of the first year of the repayment period; provided that the maker may, prior to his ceasing to be a full-time student at the above-named institution, elect to repay in accordance with the terms of a graduated schedule approved by the above-named institution and the Commissioner of Education of the United States, hereinafter called the Commissioner, which schedule, when agreed upon, shall be attached to and become a part of this note.

II. All sums advanced pursuant to this note are drawn from a fund created under the National Defense Education Act of 1958. Such terms of this note as are subject to interpretation shall be construed in the light of Federal Regulations pertaining to such Act, a copy of which shall be kept by the institution.

III. This note is subject also to the following conditions:

(1) The maker may at his option and without penalty prepay all or any part of the principal and accrued interest at any time.

(2) Interest shall not accrue on the loan, and periodic installments need not be paid, during any period (a) during which the maker is pursuing a full-time course of study in an institution of higher education, or (b) not in excess of three years during which the maker is a member of the Armed Forces of the United States; any such period in (a) or (b) shall not be included in determining the ten-year period during which repayment must be completed.

(3) If the maker undertakes service as a full-time teacher in a public elementary or secondary school (in a State or Hawaii, Puerto Rico, the District of Columbia, Canal Zone, Guam or the Virgin Islands), the amount of this note shall be reduced at the rate of ten per centum of such amount plus interest thereon which was unpaid on the first day of such service for each complete academic year of such service, up to a maximum of fifty per centum of the principal plus interest thereon.

(4) In the event of the maker's total and permanent disability or death, the unpaid indebtedness hereunder shall be cancelled.

(5) The maker undertakes to inform the institution to whom he is indebted under this note of any change in his address after his ceasing to be in attendance at such institution.

IV. The maker hereby certifies that he has received no other National Defense Student Loans except as indicated in the Schedule of Previous National Defense Student Loans below.

Signed _____

Date _____

Caveat—This note shall be executed without security and without endorsement, except that, if the maker is a minor and this note would not, under State law, create a binding obligation, either security or endorsement may be required. The payee shall supply a copy of this note to the maker.

SCHEDULE OF PREVIOUS NATIONAL DEFENSE STUDENT LOANS

| | Amount | Date | Institution | Signature of maker |
|---|---|---|---|---|
| 1 | $ | | | |
| 2 | | | | |
| 3 | | | | |
| 4 | | | | |

SCHEDULE OF ADVANCES

| | Amount | Date | Signature of maker |
|---|---|---|---|
| 1 | $ | | |
| 2 | | | |
| 3 | | | |
| 4 | | | |
| 5 | | | |
| 6 | | | |
| 7 | | | |
| 8 | | | |
| 9 | | | |
| 10 | | | |

PAYMENT ON NATIONAL DEFENSE STUDENT LOAN [1]

| Date | Amount of payment | | | Received by |
|---|---|---|---|---|
| | Total | Principal | Interest | |
| | $ | $ | $ | |
| | | | | |
| | | | | |
| | | | | |
| | | | | |
| | | | | |
| | | | | |
| | | | | |
| | | | | |

[1] This repayment record need not necessarily be recorded on each note, but such information may be kept by the Institution in other appropriate records.

Dated: April 1, 1959.

[SEAL] L. G. DERTHICK,
*United States Commissioner of Education.*

Approved: April 21, 1959.

ARTHUR S. FLEMMING,
*Secretary of Health, Education, and Welfare.*

[F.R. Doc. 59-3509; Filed, Apr. 24, 1959; 8:47 a.m.]

# Title 46—SHIPPING

## Chapter I—Coast Guard, Department of the Treasury

[CGFR 59-10]

## OCEAN OR UNLIMITED COASTWISE VESSELS ON INLAND AND GREAT LAKES ROUTES

### Miscellaneous Amendments to Chapter

With the opening of the St. Lawrence Seaway, many inquiries are being received concerning what requirements apply or if special indorsements are needed on certificates of inspection to authorize vessels carrying valid certificates of inspection for ocean voyages or unlimited coastwise voyages, to operate on the Great Lakes.

At present there is no positive requirement in the regulations stating the rules and regulations governing the inspection and certification of ocean and unlimited coastwise vessels demand higher standards than the rules and regulations governing the inspection and certification of Great Lakes vessels. However, it is well established that vessels certificated for ocean or coastwise voyages are required to meet higher standards of construction, subdivision, fire extinguishing capability, and must carry more primary lifesaving equipment although it is not of the same type and character necessary for Great Lakes vessels. It has been the practice to administratively recognize the higher standards required for ocean and coastwise vessels; however, in order to inform all concerned of this acceptance, new regulations designated 46 CFR 30.01-7, 70.05-7, 90.05-7 and 167.01-7 are being added. Since the regulations in this document are to clarify the scope of indorsements on certificates of inspection, it is hereby found that compliance with the Administrative Procedure Act (respecting notice of proposed rule making, public rule making procedures thereon, and effective date requirements thereof) is unnecessary. Because publication of regulations setting forth present administrative practice with respect to meaning of routes indorsed on certificates of inspection for certain ocean and coastwise vessels may be improperly construed, if not published in all regulations governing the inspection of different types of vessels, it is found that an emergency exists and the requirements for a public hearing and effective date in R.S. 4417a, as amended (46 U.S.C. 391a), need not be met with respect to a regulation

designated 46 CFR 30.01–7 governing tank vessels.

It is to be noted that ocean or unlimited coastwise vessels when operating on the Great Lakes must comply with the different requirements in the "Rules of the Road" governing the Great Lakes, which are contained in Coast Guard pamphlet CG–172. Particular attention is invited to variations concerning navigation lights and shapes, whistle signals and rules for passing. Special manning requirements may also be applicable. It is suggested that the requirements in Coast Guard pamphlet CG–268 regarding manning of vessels be reviewed (46 CFR Part 157).

By virtue of the authority vested in me as Commandant, United States Coast Guard, by Treasury Department Orders 120, dated July 31, 1950 (15 F.R. 6521), 167–9, dated August 3, 1954 (19 F.R. 5915), 167–14, dated November 26, 1954 (19 F.R. 8026), 167–20, dated June 18, 1956 (21 F.R. 4894), CGFR 56–28, dated July 24, 1956 (21 F.R. 7605), to promulgate regulations in accordance with the statutes cited with the regulations below, the following regulations are prescribed and shall become effective upon the date of publication of this document in the FEDERAL REGISTER:

SUBCHAPTER D—TANK VESSELS

## PART 30—GENERAL PROVISIONS

### Subpart 30.01—Administration

Subpart 30.01 is amended by inserting a new section designated 30.01–7 to follow § 30.01–5, reading as follows:

**§ 30.01–7 Ocean or unlimited coastwise vessels on inland and Great Lakes Routes—TB/OC.**

(a) Vessels inspected and certificated for ocean or unlimited coastwise routes shall be considered suitable for navigation insofar as the provisions of this subchapter are concerned on any inland route, including the Great Lakes.

(R.S. 4405, as amended, 4417a, as amended, 4462, as amended; 46 U.S.C. 375, 391a, 416. Interpret or apply sec. 3, 68 Stat. 675; 50 U.S.C. 198; E.O. 10402, 17 F.R. 9917; 3 CFR, 1952 Supp.)

SUBCHAPTER H—PASSENGER VESSELS

## PART 70—GENERAL PROVISIONS

### Subpart 70.05—Application

Subpart 70.05 is amended by inserting a section designated 70.05–7 to follow § 70.05–5, reading as follows:

**§ 70.05–7 Ocean or unlimited coastwise vessels on inland and Great Lakes Routes.**

(a) Vessels inspected and certificated for ocean or unlimited coastwise routes shall be considered suitable for navigation insofar as the provisions of this subchapter are concerned on any inland route, including the Great Lakes.

(R.S. 4405, as amended, 4462, as amended; 46 U.S.C. 375, 416. Interpret or apply R.S. 4426, as amended, sec. 5, 49 Stat. 1384, as amended, secs. 1, 2, 49 Stat. 1544, as amended, sec. 17, 54 Stat. 166, as amended, sec. 3, 54 Stat. 1028, as amended, sec. 3, 70 Stat. 152, sec. 3, 68 Stat. 675; 46 U.S.C. 404, 369, 367, 526p, 1333, 463a, 390b, 50 U.S.C. 198; E.O. 10402, 17 F.R. 9917; 3 CFR, 1952 Supp.)

SUBCHAPTER I—CARGO AND MISCELLANEOUS VESSELS

## PART 90—GENERAL PROVISIONS

### Subpart 90.05—Application

Subpart 90.05 is amended by inserting a new section designated 90.05–7 to follow § 90.05–5, reading as follows:

**§ 90.05–7 Ocean or unlimited coastwise vessels on inland and Great Lakes Routes.**

(a) Vessels inspected and certificated for ocean or unlimited coastwise routes shall be considered suitable for navigation insofar as the provisions of this subchapter are concerned on any inland routes, including the Great Lakes.

(R.S. 4405, as amended, 4462, as amended; 46 U.S.C. 375, 416. Interpret or apply R.S. 4426, as amended, secs. 1, 2, 49 Stat. 1544, as amended, sec. 17, 54 Stat. 166, sec. 2, 54 Stat. 1028, as amended, sec. 3, 68 Stat. 675; 46 U.S.C. 404, 367, 526p, 463a, 50 U.S.C. 198; E.O. 10402, 17 F.R. 9917; 3 CFR, 1952 Supp.)

SUBCHAPTER R—NAUTICAL SCHOOLS

## PART 167—PUBLIC NAUTICAL SCHOOL SHIPS

### Subpart 167.01—General Provisions

Subpart 167.01 is amended by inserting a new section designated 167.01–7 to follow § 167.01–5, reading as follows:

**§ 167.01–7 Ocean or unlimited coastwise vessels on inland and Great Lakes Routes.**

(a) Vessels inspected and certificated for ocean or unlimited coastwise routes shall be considered suitable for navigation insofar as the provisions of this subchapter are concerned on any inland route, including the Great Lakes.

(R.S. 4417, as amended, 4418, as amended, 4426, as amended, 4428–4434, as amended, 4450, as amended, 4488, as amended, 4491, as amended, 41 Stat. 305, as amended, secs. 1, 2, 49 Stat. 1544, 1545, as amended, secs. 1–21, 2, 54 Stat. 163–167, as amended, 1028, as amended, sec. 3, 68 Stat. 675; 46 U.S.C. 391, 392, 404, 406–412, 239, 481, 489, 363, 367, 526–526t, 463a, 50 U.S.C. 198, E.O. 10402, 17 F.R. 9917, 3 CFR, 1952 Supp.)

Dated: April 20, 1959.

[SEAL] A. C. RICHMOND,
*Vice Admiral, U.S. Coast Guard, Commandant.*

[F.R. Doc. 59–3519; Filed, Apr. 24, 1959; 8:49 a.m.]

[CGFR 59–7]

SUBCHAPTER F—MARINE ENGINEERING

## PART 56—ARC WELDING, GAS WELDING AND BRAZING

SUBCHAPTER Q—SPECIFICATIONS

## PART 161—ELECTRICAL EQUIPMENT

### Retention of Radiographs of Welds, and Fire-Protective Systems

In 1953 the requirements for nondestructive tests of welds used in the construction of Class I welded pressure vessels were revised. One of these requirements specified the retention of radiographs of welds by the Officer in Charge, Marine Inspection, for a period of ten years. This requirement is now considered to be a matter subject to laws governing disposal of records and, therefore, the regulation designated 46 CFR 56.05–5(p) is canceled by this document.

The specification for fire-protective systems for merchant vessels designated 46 CFR Subpart 161.002 was originally proposed and considered as Item XIV of the Agenda for a Merchant Marine Council Public Hearing held April 24, 1956. By specific provisions in 46 CFR 113.10–5 and 113.15–5, it is required that all fire-protective systems installed on merchant vessels on and after November 19, 1958, shall be in compliance with this specification. To date no Coast Guard approval has been granted to a manufacturer under the specification designated 46 CFR 161.002. A manufacturer of fire-protective systems has pointed out that the requirement in 46 CFR 161.002–14(d)(1) to have key stations for use with portable recording watch clocks painted a typical bright red color is not practical and such stations may be confused with fire alarm stations. Further, it is felt that key stations painted a bright red will attract undue attention to them. Therefore, the amendment in this document to 46 CFR 161.002–14(d)(1) will cancel the requirement that key stations shall be finished in a typical bright red color.

Since the amendments to the regulations contained in this document delete instructions to the Coast Guard or relax previous requirements, it is hereby found that compliance with the Administrative Procedure Act (respecting notice of proposed rule making, public rule making procedures thereon, and effective requirements thereof) is deemed unnecessary.

By virtue of the authority vested in me as Commandant, United States Coast Guard, by Treasury Department Order No. 120, dated July 31, 1950 (15 F.R. 6521), Treasury Department Order 167–14, dated November 26, 1954 (19 F.R. 8026), and Treaury Department Order CGFR 56–28, dated July 24, 1956 (21 F.R. 5659), to promulgate regulations in accordance with the statutes cited with the regulations below, the following amendments are prescribed and shall become effective on the date of publication of this document in the FEDERAL REGISTER:

### Subpart 56.05—Tests and Inspection

§ 56.05–5 [Amendment]

Section 56.05–5 *Nondestructive tests* is amended by canceling paragraph (p).

(R.S. 4405, as amended, 4462, as amended; 46 U.S.C. 375, 416)

### Subpart 161.002—Fire-Protective Systems

Section 161.002–14(d)(1) is amended to read as follows:

§ 161.002–14 Watchman's supervisory systems.

* * * * *

(d) *Key stations for use with portable recording watch clocks.* (1) The key station shall be of substantial construction and provided with a hinged cover. The key shall be attached to the station by means of a strong link chain. The key stations shall be mounted in such a manner that they cannot be removed without giving evidence of removal.

(R.S. 4405, as amended, 4462, as amended; 46 U.S.C. 375, 416)

Dated: April 20, 1959.

[SEAL] A. C. RICHMOND,
*Vice Admiral, U.S. Coast Guard, Commandant.*

[F.R. Doc. 59–3518; Filed, Apr. 24, 1959; 8:48 a.m.]

# PROPOSED RULE MAKING

## DEPARTMENT OF AGRICULTURE

### Agricultural Marketing Service

### [ 7 CFR Part 968 ]

[Docket No. AO–173–A10]

### HANDLING OF MILK IN WICHITA, KANSAS, MARKETING AREA

### Decision With Respect to Proposed Amendments to Tentative Marketing Agreement and to Order

Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), a public hearing was held at Wichita, Kansas, on August 5–7, 1958, pursuant to notice thereof issued on July 16, 1958 (23 F.R. 5509).

Upon the basis of the evidence introduced at the hearing and the record thereof, the Deputy Administrator, Agricultural Marketing Service, on February 9, 1959 (24 F.R. 1097) filed with the Hearing Clerk, United States Department of Agriculture, his recommended decision containing notice of the opportunity to file written exceptions thereto. On the basis of filed exceptions certain changes were made, particularly relating to the classification and pricing of milk used to produce cottage cheese. In view of these changes the Deputy Administrator, Agricultural Marketing Service, filed with the Hearing Clerk, United States Department of Agriculture, a revised recommended decision on April 9, 1959 (24 F.R. 2835). Further opportunity was provided for filing written exceptions thereto.

The material issues on the record of the hearing relate to:

1. Expansion of the marketing area;
2. Standards for qualifying a plant as a pool plant;
3. Defining a cooperative association as a handler with respect to bulk tank milk and to milk which it diverts to nonpool plants;
4. Classification of new products;
5. Classification, accounting, and pricing provisions regarding cottage cheese;
6. Changing the Class I price;
7. Providing location differentials to handlers and producers;
8. Reviewing the provisions relative to unpriced milk; and
9. Administrative changes.

A proposal to revise the method of accounting for the skim milk equivalent of dried or concentrated products was not supported at the hearing and no further reference to it is made herein.

*Findings and conclusions.* The following findings and conclusions on the material issues are based on evidence presented at the hearing and the record thereof:

1. *Marketing area.* The Wichita, Kansas, marketing area should be expanded to include all of Sedgwick County within which the present marketing area is located, the additional counties of Cowley, Sumner, Butler, Marion, and Harvey, and all Federal, State, and municipal institutions or bases located therein.

Minimum sanitary requirements are established by State of Kansas authorities for milk and some local authorities impose additional requirements. The requirements for milk labeled and sold as Grade A are substantially the same although there are portions of the six-county area which do not require that fluid milk meet Grade A requirements. The order will continue to apply only to Grade A milk inasmuch as most of the municipalities require that only Grade A milk be sold, and nearly all of the milk sold in the area is, in fact, Grade A milk.

With respect to that portion of Sedgwick County outside of the presently defined marketing area, the territory is served almost exclusively by presently regulated handlers. The rapid growth of population and milk sales make it desirable that this territory be included in the marketing area.

In Cowley County, the Arkansas City Cooperative Milk Association is the principal handler. This association operates a plant located in Arkansas City at which Grade A milk is received and distributed on routes and at which manufacturing grade milk is also received for manufacturing various dairy products. In recent years this plant has been the principal outlet for the seasonal and daily surpluses of that portion of the Wichita Grade A milk supply which is handled by the Wichita Milk Producers Association. The Grade A shippers currently shipping milk to the Arkansas City plant have recently executed conditional membership contracts with the Wichita Milk Producers Association. The latter association plans to assume responsibility for the marketing of the milk of these shippers when the contracts become effective. The Wichita Milk Producers Association proposed to include Cowley County and certain designated cities in Sumner County in the Wichita marketing area in order to provide maximum flexibility in the marketing of this supply of Grade A milk and to assure that all handlers selling milk in the sales territory served by the Arkansas City plant would be required to pay the same minimum class prices for milk.

It is estimated that 16 percent of the total sales in Cowley County are made by handlers from plants presently regulated under the Wichita order. These handlers also distribute extensively in the other counties herein recommended to be added to the Wichita marketing area. Under the circumstances, it is appropriate that the added territory be made part of the Wichita market rather than being separately regulated or added to another Federal order area.

Of the two other major handlers distributing Grade A milk in Cowley County one handler operates a plant, regulated under the Kansas City order, at Council Grove in Morris County, and the other handler operates an unregulated plant at El Dorado, in Butler County, as well as a regulated plant at Wichita. Three small plants located at Winfield, in Cowley County, handle most of the remaining Grade A milk distributed in this county. The combined volume of all of the Grade A milk sold by presently regulated Wichita handlers, the Arkansas City Cooperative Milk Association, and the handler operating the El Dorado plant constitutes a very high percentage of the total Grade A milk in the county.

In the other four counties which are recommended for inclusion in the marketing area, handlers who are already regulated or who would be regulated by reason of the inclusion of Cowley County account for the major portion of the Class I business. In such circumstances inclusion of the entire counties will promote orderly marketing by requiring all handlers to pay the same minimum prices to producers in accordance with use. The boundaries of the area will encompass the major portion of the sales territories of the regulated handlers and involve only a minimum number of handlers whose major proportion of business is outside the area.

A review of the record in the light of exceptions taken by interested parties shows that in Butler County the combined sales of presently regulated handlers represent approximately 27 percent of the total volume of Grade A milk sold. To this would be added the volume of sales from the El Dorado plant which would be fully or partially regulated by virtue of its Grade A distribution in Cowley County. The combined volume distributed by the Wichita handlers and from the El Dorado plant was shown by uncontroverted evidence to approximate 60 percent of the total quantity of fluid milk distributed in the county. The evidence was based on the actual sales data from 5 handlers and observations of competitors' operations, and was checked

against population data and average rates of consumption.

In Marion County the principal distributor is the Tip Top Dairy, Inc., a plant operated by a cooperative association of producers. This distributor handles both Grade A and manufacturing grade milk. His Grade A facility is presently qualified as a pool plant under the Wichita order by virtue of substantial route sales in the marketing area. This handler also has substantial route sales of Grade A milk in Marion County and adjacent territory. The only other distributing plant located in Marion County is operated by a proprietary handler who sells fluid milk and cottage cheese in Marion and other adjacent counties. He is partially regulated as a handler operating a nonpool plant under both the Wichita and Kansas City orders, but has an insufficient portion of sales in either market to qualify as a pool plant.

Harvey County is situated immediately north of Sedgwick County, west of Butler County, and southwest of Marion County. It is served extensively by presently regulated Wichita handlers, including Tip Top Dairy at Hillsboro. Most of the remaining sales are made by five handlers operating plants at Newton and one of the handlers also operates a plant at Halstead. Of the five plants at Newton one deals only in bottled raw milk and two others function only as distributors of milk which is processed and packaged elsewhere. None of these three plants would be regulated under the order.

In Sumner County, which is situated south of Sedgwick County and west of Cowley County, the major portion of Class I sales is made by Wichita handlers and by the Arkansas City Cooperative Milk Association. Only two additional handlers, with plants located at Wellington, would be regulated.

The other eight counties proposed by the Wichita handlers for inclusion in the marketing area should not be so included. Reno County, in which Hutchinson is the largest center of population, is the most heavily populated of these proposed additional counties. The principal distributor in Reno County is the Producers Dairy Cooperative Association. This association procures and sells virtually its entire supply of milk within Reno County and accounts for nearly three-fourths of the total sales of Grade A milk within the county. The principal reason advanced by the Wichita handlers for including Reno County in the marketing area was the competition afforded by a grocery store which has a relatively small-scale dairy operation. It appears, however, that the competitive conditions can be attributed more to the use of milk as a loss leader in connection with the grocery operation than to low prices paid for milk. Regulation would not prevent the use of milk as a loss leader as resale prices are not included in the order.

With respect to the other counties, the handlers presently regulated under the Wichita order and those who would become regulated hereunder have only a minor portion of the total sales. The recommended marketing area includes the territory within which such handlers have a significant volume of sales. Further expansion of the marketing area would not contribute to the effectiveness of the regulation and would bring under regulation plants which have only a minor connection with the Wichita market.

It is intended that the marketing area include all of the territory occupied by Federal, State, and municipal reservations and institutions lying within the defined limits. These installations, by virtue of their location and the similarity of their quality requirements, represent logical areas of distribution for handlers who would become regulated under this order or for handlers regulated under other Federal orders. Failure to include these installations would place regulated handlers at a serious cost disadvantage in competing with unregulated handlers for such sales.

The present order, with the specific amendments hereinafter considered, is appropriate to the expanded area. The applicability of each section to marketing conditions in the newly included territory was open for consideration at the hearing.

2. *Pool plant standards.* The present pool plant standards, which are applicable to distributing plants, should be modified and objective standards should be provided in the order to enable supply plants to qualify as pool plants.

In the revised recommended decision the definition of pool plant was modified to make it clear that all milk diverted to a nonpool plant by a cooperative association would be accounted for as having been received at the plant from which diverted in order to determine whether such plant was a pool plant. Under the present order, milk diverted to a nonpool plant is assigned to the plant from which it is diverted to determine the pool status of the latter plant.

In their subsequent exceptions, producers indicated that they were relying on diversion operations to qualify the Grade A operation of the Arkansas City Cooperative Association as a pool plant. If diverted milk is accounted for as a receipt in determining pool status, this plant would not dispose of, as Class I milk, an amount equal to 50 percent or more of its total receipts in the months of July through February or 40 percent in the months of March through June.

The Grade A facilities of the Arkansas City Cooperative Association are primarily associated with the Wichita market as recommended to be expanded and not with any other market. The plant is the outlet for the milk of approximately 126 Grade A dairy farmers and should be included in the marketwide pool. This can be accomplished by reducing the percentages of receipts which must be sold as Class I to 35 percent in the months of July through February and to 25 percent in the months of March through June.

The Wichita market has periodically required supplemental supplies of bulk milk from sources other than regular local producers. These supplemental supplies are potentially subject to compensatory payments. However, in the past, other source milk has not often been subject to such payments either because local milk was determined to be unavailable, in which case no compensatory payment was charged on other source milk, or because the quantities of other source milk were insufficient to be allocated to Class I. On the other hand, technological advances in milk refrigeration and transportation have made it more feasible for distant plants to become regular suppliers of milk to the market and, consequently, fully subject to the pricing and pooling provisions of the order.

Appropriate qualification of supply plants can be accomplished by defining as a pool plant any plant from which at least 50 percent of the milk received from Grade A sources during the month is shipped to pool distributing plants. Any supply plant from which half or more of the total supply is shipped to Wichita distributors is more closely associated with the Wichita market than with any other market.

Supply plant sources are usually called upon for maximum quantities of shipments during the fall and winter months of lowest production. In the following flush months when nearby milk supplies more nearly approach market requirements a greater percentage of supply plant milk is utilized for manufacturing purposes. Accordingly, it should be provided that any supply plant which qualifies as a pool plant during each of the months of August through November should remain qualified as a pool plant during the subsequent flush production months of December through July regardless of the quantity of milk shipped to bottling plants. The months of August through November, which are also specified in the order as base-forming months, are the months when supplies are most often lowest in relation to Class I needs of the market.

Supply plants qualifying as pool plants during the fall months should be relieved of pool status during the subsequent months if the operator makes written request to the market administrator for nonpool status.

3. *Bulk tank milk.* One proposal considered at the hearing was designed to accommodate efficiencies resulting from the system of collecting milk from farms in bulk tank trucks.

The Wichita Milk Producers Association operates insulated tank truck routes in which milk of producers who have bulk cooling tanks on the farm is picked up and transported to the distributing plants of handlers. Since early 1955 there has been a rapid expansion in the number of bulk cooling tanks being installed on the farms. At the present time almost all of the members of the bargaining cooperative association have farm tanks. However, most of the milk in the additional portion of the marketing area is still brought to market in cans.

The transportation of milk from farm to market in insulated tank trucks owned or operated by, or under contract to, a cooperative association has created a problem with respect to the determination of the responsibility to the individual producers. When milk comes to the market in cans, the milk of the individual producers is dumped, weighed, and a

sample taken for butterfat testing by an employee of the plant where the milk is utilized. The operator of the plant is responsible for paying the individual producer for the quantity of milk received at the determined butterfat test.

When milk moves to market in a tank truck, the weight of the milk is checked and a sample for butterfat testing is taken by the driver at the farm. The milk of several producers is intermingled in the tank truck. When the tank trucks are owned, operated, or controlled by the cooperative association, the weight of each producer's milk is checked and a sample of the milk for butterfat testing is taken by a person who is an employee of, or directly responsible to, the cooperative association. The handler who receives the milk of several producers intermingled in the tank has no way of knowing the weight or the butterfat test of the milk of the individual producers whose deliveries made up the load, except as such information may be reported to him by the association. In some instances, particularly in the case of supplemental loads, the handler may not even know the identity of the producers whose milk he receives.

Under these circumstances, it is preferable to make the cooperative association responsible for the payment to a producer for a given quantity of milk at a particular test since the handler has no direct means of verifying such weights and test. Any cooperative association which qualifies as such under the order should be authorized to act as the handler for such milk and, as the handler, should be required to account to the pool for it. The cooperative association should also be required to charge at least the class prices to the plant operator for such milk. The cooperative association in turn would be required to make the monthly reports with respect to such milk and to settle with the producer-settlement fund for it.

With respect to milk received from producers' farms in cans or in tank trucks owned, operated, or controlled by the distributing plant, the operator of such plant would continue to be the handler for such milk and would be required to account to the market administrator for it. For such milk the handler would make payment to the producer or the cooperative association at the applicable uniform prices.

4. *Classification of new products.* The classification provisions of the order should be clarified with respect to certain new products currently manufactured by one of the handlers and with respect to any other new products which may be introduced into the market in the future.

The handler is manufacturing three new products, none of which are required to be made from Grade A milk. One product is a sterilized, canned milk which resembles evaporated milk more closely than whole fluid milk with respect to sanitary requirements and keeping quality. It should, therefore, be classified in Class III. The other two products are sterilized, frozen dessert preparations packaged in hermetically sealed cans. One product is an ice milk mix and the other is a milk shake mix. Both frozen dessert mixes should be in Class III, since they would be so classified even if not sterilized or canned.

Paragraph (c) of § 968.41 should be revised to eliminate the specific listing of manufactured dairy products. Instead, it should provide that any product not specifically named in paragraphs (a) or (b), which define Class I and Class II products, respectively, should be in Class III. Thus, any new milk product which may be developed will automatically be in Class III. If other classification appears more appropriate, a hearing should be called to consider appropriate amendment action.

5. *Cottage cheese.* Milk used to produce cottage cheese in plants approved for the sale of cottage cheese in jurisdictions within the marketing area which require that it be made from Grade A milk should continue to be classified as Class II and priced at 80 cents per hundredweight above the Class III price. However, milk used to produce cottage cheese at plants from which sales are made only outside such jurisdictions should be classified and priced as Class III.

In the recommended decision, cottage cheese was considered a Class II use regardless of the territory where it was sold. However, the provisions for compensatory payments on fluid milk products and on cottage cheese received from other Federal order markets were eliminated. In their exceptions, interested parties pointed out that a handler regulated under the Kansas City order operates a plant located only a few miles from the edge of the area recommended to be included in the expanded Wichita market and has a substantial distribution of milk and cottage cheese in such area. This handler, and any others similarly situated, would have a considerable competitive advantage in the sale of cottage cheese in the Wichita market.

In the circumstances, cottage cheese should be considered as Class II utilization only if it is made in plants from which distribution is made in those portions of the marketing area where cottage cheese is required to be made from Grade A milk. Such area presently includes the city of Wichita, where the city ordinance with respect to milk and milk products is in effect, and the territory within three miles of the city limits, which is covered by a resolution of the Sedgwick County Board of County Commissioners.

Outside these specified jurisdictions there is no requirement that cottage cheese be produced from Grade A milk. In this territory, cottage cheese can be made from manufacturing grade milk. Also, considerable quantities are currently being distributed by a Kansas City handler. Under that order cottage cheese and all other manufacturing uses are Class II. The Class II price is the higher of a local plant price, which differs only slightly from the local plant prices included in the Wichita Class III formula, or a butter-powder formula. The Kansas City Class II prices may, therefore, differ somewhat from the Class III price in Wichita but can be expected to approximate the same general level. Official notice is taken of the fact that for the calendar year 1958 the simple average of the Kansas City Class II price was 8 cents below the Wichita Class III price.

Handlers proposed that Class II milk be accounted for on the basis of actual sales of cottage cheese rather than on the basis of the milk used to produce the cottage cheese. However, this objective is already being achieved to a major degree. If a vat of milk fails to set, the handler can dispose of the milk under the dumping provision or leave it to be accounted for as plant loss. Under present procedures, milk used in the manufacture of cottage cheese has been exclusively accounted for as a "used-to-produce" basis. However, it appears that reclassification to Class III would be appropriate if route returns of Class II cottage cheese were disposed of as livestock feed, under conditions permitting adequate verification by the market administrator.

6. *Class I price.* The Class I differential over the basic formula prices should remain at $1.65 per hundredweight. However, an automatic supply-demand adjustment should be included to raise the differential whenever supplies are below normal in relation to Class I sales and to lower the differential whenever an over-supply is indicated. It is proposed that the supply-demand adjustment should not raise or lower the Class I price by more than 45 cents.

Under the authority of the Agricultural Marketing Agreement Act, prices established by milk marketing orders are required to reflect supply and demand conditions in the market. As these supply and demand conditions change from time to time, they should be appropriately reflected in order prices. One method commonly used to reflect such conditions is to determine the Class I price by adding a differential to a representative value for milk used in manufacturing dairy products. This type of pricing system is used in the Wichita order. The basic formula price reflects the national market for dairy products and thus reflects national changes in milk supply and market demands. The differential added to the basic formula price represents the higher value locally of Grade A milk, and the amount of such differential should be related to conditions peculiar to the market.

One criterion for judging the appropriateness of Class I prices is the adequacy of market supplies. It is apparent that a generally adequate supply of pure and wholesome milk has been attracted from local sources during the six years the Wichita Class I differential of $1.65 has been in effect. The receipts of milk from local producers averaged 124 percent of the gross Class I sales of pooled handlers in October 1952, the month in the fall when supplies were lowest in relation to Class I sales. Receipts were 135 percent in October 1953, 130 percent in September 1954, 123 percent in September 1955, 140 percent in October 1956, 125 percent in October 1957, and 125 percent in October 1958 (official notice being hereby taken of the latter figure).

A second criterion for evaluating the Class I level is to compare the Wichita Class I price and Class I differential with the equivalent prices (Class I price at 3.5 percent butterfat content plus transportation cost to Wichita) for Class I supplies from other markets, either in the form of supplemental milk or as regular route sales. The Wichita Class I price averaged $4.91 for the calendar year 1956 and $4.84 for the calendar year 1957. In the Greater Kansas City market, the Class I price averaged $4.48 and $4.46 in the same two years and the stated Class I differential in that market averaged $1.35. On the basis of an assumed hauling cost of 30 cents per hundredweight for the 193 miles between Kansas City and Wichita, Kansas City handlers would have had a 13-cent price advantage in 1956 and an 8-cent advantage in 1957. In the Neosho Valley marketing area Class I prices averaged $4.63 in 1956 and $4.46 in 1957. If a transportation cost of 22 cents is assumed for the 142 miles between Coffeyville and Wichita, a Neosho Valley handler would have had a 6-cent advantage in 1956 and a 16-cent advantage in 1957. The Ozarks market is a frequent source of supplemental milk and is also a potential source of competition from route-operating handlers. It is 257 miles from Springfield, Missouri, to Wichita, and transportation costs at the assumed rate of 1.5 cents per hundredweight per 10 miles would amount to 39 cents. Adding this transportation cost to the 1956 average Class I price of $4.39 and the 1957 average of $4.04, would result in price advantages to Ozarks handlers of 13 cents and 41 cents respectively.

A comparison of the stated Class I price differentials in these same markets has long-run significance. Such prices do not include the supply-demand adjustments and are therefore free of the particular supply and demand relationships which were in effect in 1956 and 1957. The Wichita Class I differential of $1.65 is exactly equal to the Kansas City differential of $1.35 plus the assumed 30-cent hauling charge, 9 cents above the Neosho Valley differential of $1.34 plus a hauling charge of 22 cents, and 38 cents over the Ozarks differential of 38 cents plus a hauling charge of 39 cents.

From the foregoing it is clear that any higher Class I differential in the Wichita order would increase the price advantages to plants in Federal order markets located north and east of the Wichita market.

With respect to markets to the south and west, a Class I differential of $1.65 in Wichita does not appear to be out of line with Class I prices in the Oklahoma Metropolitan or Southwest Kansas markets. Oklahoma City is 173 miles south of Wichita and the assumed transportation cost would be 27 cents per hundredweight. The stated differential in that market is $1.85 or 20 cents higher than the Wichita differential but the Class I price averaged $4.97 in 1956 which is only 6 cents over the Wichita price and averaged $4.82 in 1957 which is 2 cents less than the Wichita price.

Until June 1, 1958, the Class I price under the Southwest Kansas order was identical to the Wichita Class I price. (A suspension action during the months of September through December 1956, constitutes the only exception.) Since June 1 the Southwest Kansas order has included a supply-demand adjustment, although the stated Class I differential has remained the same as in the Wichita order.

The Class I differential of $1.65 per hundredweight has been sufficient to encourage the production of milk in a quantity which is adequate to meet Class I requirements of the market on a year-round basis. However, it is difficult to predict accurately the level of prices necessary to assure the market a continued adequate supply. Therefore, provision should be made for automatic adjustments of the Class I price in response to changes in the relationship between market supply and demand.

A supply-demand adjustment would provide an automatic adjustment of the Class I price to various conditions which might develop. If Class I sales are reduced or if there is an increase in the receipts of producer milk, the supply-demand adjustment will reduce the Class I price. On the other hand, if the Class I sales are increased or the supply of producer milk is reduced, the Class I price will be increased.

Recent data on the relationship between receipts from producers and Class I sales in the market furnish the best available indicators of prospective supply-demand conditions. At the beginning of any pricing month, data on receipts and sales are available for the second and third preceding months. These "current utilization percentages" can be compared with "standard" or normal utilization percentages for the corresponding months to determine whether an oversupply or an undersupply is in prospect.

In establishing the "standard" percentages an annual average reserve supply of 35 percent over Class I sales should be provided. During the period December 1957 through November 1958, the most recent 12-month period for which data are available, the producer receipts averaged 131 percent of gross Class I sales by pooled handlers. (Official notice is hereby taken of these data for the months of July through November 1958.) The recent 12-month period is one in which the local supply of milk from producers has been adequate for the Class I and Class II requirements of the market, even during the months of lowest production. However, the market-wide utilization experience during this most recent year should be adjusted to include utilization at plants which would become subject to regulation by the expansion of the marketing area. The largest plant so affected, that of the Arkansas City Cooperative Association, receives a volume of approximately 1.5 million pounds of Grade A milk per month from producers, of which about half is used for Class I purposes. Inclusion of these data would raise the marketwide utilization by 5 points, to 136. It is assumed that utilization at the other, smaller, plants which would become regulated would not differ appreciably from that of the presently regulated handlers.

This annual average of 136 percent must be seasonally adjusted to reflect the usual month-to-month variation from the annual average. The producers proposed that seasonal variation in the standard percentages be based on utilization percentages for the period April 1954 through June 1958. Their seasonal index was based on the midpoint of utilization percentages for each month during this period, and it appears appropriate for the purpose.

The standard utilization percentages so developed are as follows:

| Month for which price applies | Months used in computation | Standard utilization percentages | |
|---|---|---|---|
| | | Minimum | Maximum |
| January | October–November | 126 | 136 |
| February | November–December | 130 | 140 |
| March | December–January | 128 | 138 |
| April | January–February | 126 | 136 |
| May | February–March | 130 | 140 |
| June | March–April | 135 | 145 |
| July | April–May | 141 | 151 |
| August | May–June | 138 | 148 |
| September | June–July | 130 | 140 |
| October | July–August | 130 | 140 |
| November | August–September | 128 | 138 |
| December | September–October | 123 | 133 |

As a safeguard against erratic movements in the supply-demand adjustment, provision should be made to adopt a nominal rate of adjustment for each point of variation from the standard utilization percentages when such variation first appears, but to increase the adjustment progressively as variations of like direction and amount persist through two or three consecutive two-month periods. Such a provision will serve as a brake on the rapidity of price changes and will avoid substantial price increases or decreases based on short-time, nonrecurring deviations from the established standard percentages. Substantial price adjustments will occur, however, when undersupply or oversupply representing a significant variation from the established percentage persists for any period of time. This should be accomplished by providing that for each percentage point of deviation from the standard utilization percentage the price shall be adjusted one cent, plus one cent for each percentage point for which there was a deviation of like character and up to the same amount in the percentage computed for the second preceding month, plus an additional one cent for each percentage point for which there was a deviation of like character and up to the same amount in the percentage computed for the third preceding month.

Handlers contend that the additional marketing area would make it impossible to devise an appropriate supply-demand adjustment. However, the area herein added is smaller than that proposed, the presently regulated plants handle the bulk of the milk distributed in the added marketing area, and allowance has been made for the lower utilization pattern at the largest plant which would become regulated under the

additional marketing area provided herein.

A subsequent portion of this decision contains findings relative to the removal of compensatory payments on milk classified and priced under another Federal order. This action obviously increases greatly the importance of aligning the Wichita price with those in other Federal order markets from which competitive prices might be obtained. The problem is most acute in the case of the Kansas City market. A plant at Council Grove, Kansas, regulated under the Greater Kansas City order, is only 60 miles from the Wichita pool plant located at Hillsboro, Kansas. However, despite the close proximity of the two plants, the Wichita handler did not wish to have location adjustments apply to his plant under the Wichita order nor did he testify in favor of lower prices. If price differences between the two orders create critical competitive problems at these or other locations, appropriate remedies can be considered at subsequent hearings.

7. *Location differentials.* Class I milk products, because of their bulky, perishable nature, incur a relatively high transportation charge if moved a considerable distance. Milk delivered directly by farmers to plants in or near the urban centers in the marketing area is therefore worth more to a handler than milk which is received from farmers at a plant located many miles from the market. This is so because in the latter instance the handler must incur the additional cost of moving that milk into the central market. The producer, in turn, receives less for milk delivered to points distant from the marketing area to the extent of the additional cost of hauling his milk into the central market. Under these conditions the value of milk delivered to plants located at some distance from the central market is reduced in proportion to the distance (and the cost of transporting such milk) from the point of receipt to the central market.

There are several distant distributing plants from which milk is sold within the proposed additional marketing area. It is also possible that other distributing plants or supply plants may become fully or partially associated with the market. The operators of such distant plants would incur substantial transportation costs on their milk before reaching any portion of the marketing area and they should be allowed an offsetting credit in order to be fully competitive with the approved plants located within the marketing area. In the absence of location adjustments these handlers would absorb the cost of transporting such milk sold in the marketing area but would be liable to pay their producers the full f.o.b. market price on all receipts of producer milk. This would be contrary to the basic principle of location differentials which places a lower value on milk received from producers at points distant from the marketing area.

Wichita is the geographical center of the marketing area and it represents a central point on which location differentials should be based. The distance used in determining location differentials should be measured from the Courthouse at Wichita, Kansas, by the shortest highway distance, as determined by the market administrator.

There should be no location adjustment at plants located within 70 miles of Wichita. The 70-mile zone includes all the plants serving the present market and most of those which would be serving the additional territory recommended herein, including the plants located at Arkansas City, El Dorado and Marion. These plants compete with each other so extensively throughout the marketing area that different Class I prices based upon plant location would not be appropriate.

In the 70–80 mile zone the rate of location adjustment should be 12 cents per hundredweight of milk. The rate should be increased by 1.5 cents per hundredweight for each additional 10 miles or fraction thereof in excess of 80 miles. These rates, which reflect transportation costs on milk moved in bulk tanks, have been incorporated into other orders in the south central United States and are appropriate for use in the Wichita area.

A method should be provided for determining the priority of milk from various plants in allocating to Class I for the purpose of computing the aggregate of location differentials to be allowed. Such differentials would be made for each handler in sequence beginning with milk received directly from producers and then milk received from those plants which have the lowest location differential.

Payments to distant producers should be reduced by the amount of the applicable location differential. Under these conditions the value of producer milk delivered to plants would be reduced in proportion to the distance that such plant is from Wichita by the same rate that applies to Class I milk.

8. *Provisions regarding unpriced milk.* The present provisions regarding unpriced milk obtained from totally unregulated plants are fully as applicable to the expanded marketing area as to the present area and should be retained. However, no payments should be assessed on milk which has been classified and priced under another Federal order.

One category of other source milk is that which is distributed on routes in the marketing area by the operators of plants which are not regulated under other Federal orders and which do not qualify as pool plants under the Wichita order. Such handlers are subject to the Wichita order only to the extent necessary to make sure that they have no raw milk cost advantage over fully regulated Wichita handlers. This objective is accomplished in one of two ways; the operator of a nonpool plant must either pay into the pool any amount by which his payments to his own Grade A dairy farmers are less than the amounts he would have had to pay if he were fully subject to the order, or he may pay the difference between the price of Class III milk and the prices applicable to his Class I and Class II sales in the marketing area. There was no proposal that these provisions be changed.

A second category of other source milk is that purchased by the operator of a pool plant. Such milk might be obtained either from plants which are subject to other Federal orders or from completely unregulated plants. The allocation provisions of the Wichita order should be modified to specify that the milk from unregulated sources be allocated to the lowest class use before the milk from other Federal order plants. This will give priority to other order milk in any allocation which may be made to Class II or Class I and will also serve to minimize the amount of any compensatory payment which a Wichita handler might be required to make on other source milk from unregulated plants. If milk from unregulated plants is allocated to Class I or to Class II, the Wichita handlers should continue to be assessed the difference between Class I or Class II and the Class III price, in order to remove any competitive advantage which they might otherwise have in the procurement of temporary surpluses from other markets.

In addition to the other source milk which may enter the market in the form of fluid milk products, there are times when other source milk will be imported from unregulated sources in concentrated form for use as Class I milk. In order to remove the price advantage a handler might have through the reconstitution of such products into fluid milk products, the rate of compensatory payment on other source milk received in concentrated form should be the same as on that received in the form of fluid milk products.

Since the handler must pay the cost of transporting other source milk from the plant of origin to the marketing area, the rate of the compensatory payment on other source milk should be reduced by the amount of the location differential which would apply at the plant of origin were it a regulated plant under the proposed order. No location differential should be deducted, however, in the case of condensed skim milk or nonfat dry milk which at times may be allocated to Class I use. In the case of these products it would be extremely difficult and at times impossible to determine the plant of origin. They may pass through several hands between the manufacturer and the ultimate user and the output of many plants in many different localities may be commingled by the broker or jobber from whom such products are acquired. The administrative difficulties which would be involved make it impractical to apply location differentials to the payment associated with condensed skim milk and nonfat dry milk. Moreover, since the cost of transporting milk solids in concentrated form is slight in terms of its milk equivalent, the difference in cost to handlers would be negligible.

In computing the applicable location differential, if a handler has received other source milk from two or more nonpool plants, the amount of skim milk and butterfat allocated to Class I milk should be considered to have been received from the plants in sequence, according to the smallest location adjustment applicable.

If milk which is subject to the pricing and pooling provisions of another Federal order is sold as Class I or Class II in the Wichita area, either on routes or as supplemental milk to a Wichita pool plant, the minimum prices paid to pro-

ducers for the milk will have been clearly established. In most of the nearby order markets, including Greater Kansas City, Southwest Kansas and Oklahoma Metropolitan, Class I prices are subject to supply-demand adjustments. A similar adjustment is provided for herein. One of the functions of such adjustments is to attract milk from markets in which supplies are overabundant to markets which are in relatively short supply. Supply and sales responses to such price differences should not be hampered by requiring equalizing charges on milk moving between order markets. If the stated differentials and the supply-demand adjustments in the Wichita order and in the nearby orders do not result in an appropriate alignment of prices, consideration should be given to further amendment of the orders involved.

9. *Administrative changes.* The entire order should be redrafted to incorporate conforming and clarifying changes and to facilitate application of its various provisions.

New or revised definitions, which should accompany the order revisions mentioned elsewhere in this recommended decision, are provided in the attached order. Such conforming changes have been made in the definitions of "approved dairy farmer", "producer", "approved plant", and "producer milk".

The definition for "other source milk" has been revised. It now conforms to the new "producer milk" definition which excludes milk transferred between pool plants. The new "other source milk" definition also clarifies the status of reprocessed products such as nonfat dry milk and other non-fluid milk products.

"Fluid milk product" is defined in the order because of frequent references to this group of items. This designation should provide a basis for classifying new products until, as indicated elsewhere, appropriate amendment action may be taken if so required.

An "equivalent price" definition has been included as experience has shown that market quotations provided in the order may not be available. When market quotations are not available, such price is to be determined by the Secretary of Agriculture.

The revised "producer-handler" definition permits such operators to receive milk by transfer from pool plants, but not from nonpool sources, without becoming fully subject to the order's pricing provisions. Without this restriction, producer-handlers could purchase large quantities of nonpool milk along with their own production and, consequently, obtain a price advantage over competing regulated handlers.

Revisions should be made in the list of plants whose manufacturing milk prices are used as a basis for the Class III price. The four plants currently designated are the Arkansas City Cooperative Milk Association at Arkansas City, Kansas, Bennett Creamery Company at Ottawa, Kansas, Page Milk Company at Coffeyville, Kansas, and Pet Milk Company at Iola, Kansas. It is recommended that of this group only the Pet Milk Company plant at Iola be retained, inasmuch as the plants operated by the Arkansas City Cooperative, Bennett Creamery Company and the Page Milk Company are operated in conjunction with Grade A plants which are prospectively subject to the Wichita order and currently regulated under the Kansas City and Neosho Valley orders, respectively. Four unregulated, geographically dispersed plants are recommended for inclusion in the order. These plants are operated by American Foods Company at Miami, Oklahoma, Borden Company at Fort Scott, Kansas, Kraft Foods Company at Nevada, Missouri, and Swift and Company at Parsons, Kansas. These plants are used for the same purpose under the nearby orders.

Changes in certain reporting and payment dates should be made to facilitate the administration of the order. The date upon which the market administrator is required to announce the uniform price and the producer butterfat differential (§ 968.22(i)(1)) for the preceding month should be changed from the 10th to the 11th day of the month and the date for reporting the utilization of each cooperative's member milk to the cooperatives (§ 968.22(k)) has been changed from the 12th to the 13th day of the month to provide sufficient time for the market administrator to make such computations. A new section lists the information which should be contained in the market administrator's billing to handlers. It is recommended that such notification be made on the 11th day of the month.

The time extension granted the market administrator for billing handlers makes it necessary to specify later payment dates for various handler obligations. The following changes in payment dates, all refer to the month following the pricing month:

| Section | Function | Present order date | Recommended date |
|---|---|---|---|
| 968.80 (a) | Complete payment to individual (nonmember) producers. | Second working day after 10th. | Second working day after 11th. |
| 968.80 (c) | Complete payment to authorized cooperative. | 11th | 14th. |
| 968.83 | Payment to producer-settlement fund | 11th | 12th. |
| 968.84 | Receipt from producer-settlement fund | 12th | 13th. |

The order should be amended to recognize that milk incurs relatively little shrinkage in its receipt and much more in the processing, bottling and distribution operations. The supply plants and the cooperative associations, in their operation of farm tank routes, in this market would incur a relatively small amount of shrinkage on milk which is transferred to a distributing plant. Therefore, up to one-half of one percent shrinkage should be allowed on that milk which is received at the supply plants and transferred to an approved plant for bottling and distribution. The distributing plant will be allowed up to one and one-half percent shrinkage on that milk received in bulk from a supply plant and for farm tank milk for which the cooperative association is the handler.

A conforming change which should have been included in the recommended decision relates to the administrative expense charged to handlers operating nonpool plants. Under § 968.62 of the present order, such handlers pay into the equalization fund the lesser of two alternative charges. The market administrator has followed the practice of making a complete audit and determining which of the two is least. Administrative expense has, therefore, been charged on the entire quantity of approved milk.

The order has been revised to have the handler operating a nonpool plant elect whether he will pay the difference between class prices on the in-area sales or any amount by which he may have paid his approved dairy farmers less than the class utilization value of such milk at order prices.

The assessment of administrative expense should depend upon which option is chosen by the nonpool distributor. If he elects to pay the difference between class prices on his in-area sales, he should pay administrative expense only on such quantities. However, if he elects the payment-to-dairy farmers option, he should pay administrative expense on his entire receipts from the approved dairy farmers. Obviously, the second option involves fully as much verification of receipts and utilization by the market administrator as at a pool plant. Such verification might well include the checking of weights and butterfat tests of receipts from dairy farmers and of the product sold as well as an audit of the books and records.

*Rulings on proposed findings and conclusions.* Briefs and proposed findings and conclusions were filed on behalf of certain interested parties in the market. These briefs, proposed findings and conclusions and the evidence in the record were considered in making the findings and conclusions set forth above. To the extent that the suggested findings and conclusions filed by interested parties are inconsistent with the findings and conclusions set forth herein, the requests to make such findings or reach such conclusions are denied for the reasons previously stated in this decision.

*Rulings on exceptions.* In arriving at the findings and conclusions, and the regulatory provisions of this decision, each of the exceptions received was carefully and fully considered in conjunction with the record evidence pertaining thereto. To the extent that the findings and conclusions, and the regulatory provisions of this decision are at variance with any of the exceptions, such exceptions are hereby overruled for the reasons previously stated in this decision.

*General findings.* The findings and determinations hereinafter set forth are supplementary and in addition to the

findings and determinations previously made in connection with the issuance of the aforesaid order and of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) The tentative marketing agreement and the order, as hereby proposed to be amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(b) The parity prices of milk as determined pursuant to section 2 of the Act are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the marketing area, and the minimum prices specified in the proposed marketing agreement and the order, as hereby proposed to be amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(c) The tentative marketing agreement and the order, as hereby proposed to be amended, will regulate the handling of milk in the same manner as, and will be applicable only to persons in the respective classes of industrial and commercial activity specified in, a marketing agreement upon which a hearing has been held.

*Marketing agreement and order.* Annexed hereto and made a part hereof are two documents entitled, respectively, "Marketing Agreement Regulating the Handling of Milk in the Wichita, Kansas, Marketing Area", and "Order Amending the Order Regulating the Handling of Milk in the Wichita, Kansas, Marketing Area", which have been decided upon as the detailed and appropriate means of effectuating the foregoing conclusions.

*It is hereby ordered,* That all of this decision, except the attached marketing agreement, be published in the FEDERAL REGISTER. The regulatory provisions of said marketing agreement are indentical with those contained in the order as hereby proposed to be amended by the attached order which will be published with this decision.

*Referendum order; determination of representative period; and designation of referendum agent.* It is hereby directed that a referendum be conducted to determine whether the issuance of the attached order amending the order regulating the handling of milk in the Wichita, Kansas, marketing area, is approved or favored by the producers, as defined under the terms of the order, as hereby proposed to be amended, and who, during the representative period, were engaged in the production of milk for sale within the aforesaid marketing area.

The month of January 1959 is hereby determined to be the representative period for the conduct of such referendum.

Kenneth M. Fell is hereby designated agent of the Secretary to conduct such referendum in accordance with the procedure for the conduct of referenda to determine producer approval of milk marketing orders, as published in the FEDERAL REGISTER on August 10, 1950 (15 F.R. 5177), such referendum to be completed on or before the 20th day from the date this decision is issued.

Issued at Washington, D.C., this 23d day of April 1959.

[SEAL] CLARENCE L. MILLER,
*Assistant Secretary.*

*Order[1] Amending the Order Regulating the Handling of Milk in the Wichita, Kansas Marketing Area*

DEFINITIONS



AUTHORITY: §§ 968.0 to 968.111 issued under sec. 5, 49 Stat. 753, as amended; 7 U.S.C. 608c.

### § 968.0 Findings and determinations.

The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) *Findings upon the basis of the hearing record.* Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), a public hearing was held upon certain proposed amendments to the tentative marketing agreement and to the order regulating the handling of milk in the Wichita, Kansas, marketing area. Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The said order as hereby amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(2) The parity prices of milk, as determined pursuant to section 2 of the Act, are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the said marketing area, and the minimum prices specified in the order as hereby amended are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest;

[1] This order shall not become effective unless and until the requirements of § 900.14 of the rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders have been met.

(3) The said order as hereby amended, regulates the handling of milk in the same manner as, and is applicable only to persons in the respective classes of industrial or commercial activity specified in, a marketing agreement upon which a hearing has been held;

(4) All milk and milk products handled by handlers, as defined in the order as hereby amended, are in the current of interstate commerce or directly burden, obstruct, or affect interstate commerce in milk or its products; and

(5) It is hereby found that the necessary expense of the market administrator for the maintenance and functioning of such agency will require the payment by each handler, as his pro rata share of such expense, 4 cents per hundredweight or such amount not to exceed 4 cents per hundredweight as the Secretary may prescribe, with respect to milk as specified in § 968.87.

*Order relative to handling.* It Is Therefore Ordered, That on and after the effective date hereof, the handling of milk in the Wichita, Kansas, marketing area shall be in conformity to and in compliance with the terms and conditions of the aforesaid order, as hereby amended, and the aforesaid order is hereby amended as follows:

DEFINITIONS

**§ 968.1 Act.**

"Act" means Public Act No. 10, 73d Congress, as amended and as re-enacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended.

**§ 968.2 Secretary.**

"Secretary" means the Secretary of Agriculture or any officer or employee of the United States who is authorized to exercise the powers and to perform the duties of the Secretary of Agriculture.

**§ 968.3 Department.**

"Department" means the United States Department of Agriculture or such other Federal agency as is authorized to perform the price reporting functions specified in this part.

**§ 968.4 Person.**

"Person" means any individual, partnership, corporation, association, or any other business unit.

**§ 968.5 Wichita, Kansas, marketing area.**

"Wichita, Kansas, marketing area" means all the territory within Sedgwick, Cowley, Sumner, Butler, Marion, and Harvey counties, all in the State of Kansas, and all Federal, State and municipal institutions and bases located therein.

**§ 968.6 Cooperative association.**

"Cooperative association" means any cooperative association of producers which the Secretary determines:

(a) To be qualified under the provisions of the act of Congress of February 18, 1922, as amended, known as the "Capper-Volstead Act"; and

(b) To have and to be exercising full authority in the sale of milk of its members.

**§ 968.7 Approved dairy farmer.**

"Approved dairy farmer" means any person who produces milk under a dairy farm permit or rating issued by a duly constituted health authority for the production of milk to be used for consumption as Grade A milk or produces milk acceptable to agencies of the United States Government for fluid consumption in its institutions or bases in the marketing area.

**§ 968.8 Producer.**

"Producer" means any approved dairy farmer whose milk is (a) received at a pool plant, or (b) caused to be diverted from a pool plant by a handler to a nonpool plant for the account of such handler. Milk so diverted shall have been deemed to have been received at the pool plant from which it was diverted.

**§ 968.9 Approved plant.**

"Approved plant" means any plant which is:

(a) Approved by a duly constituted health authority for the handling of milk for consumption as Grade A milk in the marketing area; or

(b) Approved for supplying milk for fluid consumption to any agency of the United States Government located within the marketing area.

**§ 968.10 Pool plant.**

"Pool plant" means any approved plant other than that of a producer-handler or a plant exempt pursuant to § 968.61.

(a) During any of the months of March, April, May, or June within which such plant disposes of as Class I milk an amount equal to 25 percent or more of such plant's total receipts of milk from approved dairy farmers and disposes of as Class I milk on routes in the marketing area an amount equal to 10 percent or more of such plant's total receipts from approved dairy farmers;

(b) During any of the other months within which such plant disposes of as Class I milk an amount equal to 35 percent or more of such plant's total receipts of milk from approved dairy farmers and disposes of as Class I milk on routes in the marketing area an amount equal to 15 percent or more of such plant's total receipts from approved dairy farmers;

(c) From which during the month not less than 50 percent of its total receipts from approved dairy farmers and approved plants is shipped to a plant(s) described in paragraphs (a) and (b) of this section: *Provided,* That any plant which has shipped to a plant(s) described in paragraphs (a) and (b) of this section the required percentage of its receipts during each of the months of August through November shall be designated a pool plant in each of the following months of December through July unless written request for nonpool status is furnished to the market administrator; and

(d) For the purpose of this definition the following shall apply:

(1) Milk diverted from an approved plant for the account of the handler operating such approved plant shall be considered a receipt at the approved plant from which it was diverted;

(2) Milk for which a cooperative association is defined as the handler pursuant to § 968.11 shall be deemed to have been received by such cooperative association at the pool plant; and

(3) Milk transferred as Class I milk from an approved plant to another approved plant shall be credited as a Class I disposition as follows:

(i) Except as provided in subdivision (ii) of this subparagraph, milk so transferred will be credited as a Class I disposition of the transferring plant only to the extent that classification as Class I milk is required pursuant to § 968.44(a)(2);

(ii) In any case in which the entire quantity of Class I milk disposed of in packages of a particular size and form is received in such packages from another approved plant, all such Class I disposition shall be credited to the plant from which such packages were received and shall be deducted from the appropriate Class I disposition of the receiving plant.

**§ 968.11 Handler.**

"Handler" means:

(a) Any person in his capacity as the operator of an approved plant;

(b) Any cooperative association with respect to the milk of any producer which such cooperative association causes to be diverted to a nonpool plant for the account of such cooperative association;

(c) Any cooperative association which chooses to report as a handler with respect to the milk of its member producers which is delivered to a pool plant of another handler in a tank truck owned and operated by, or under contract to, such cooperative association for the account of such cooperative association. (Such milk shall be considered as having been received by the cooperative association at the location of the plant to which it was delivered); or

(d) Any cooperative association with respect to the milk of any member producer delivered for the account of such cooperative association to the pool plant of another cooperative association.

**§ 968.12 Producer-handler.**

"Producer-handler" means any approved dairy farmer who operates an approved plant at which no fluid milk products are received during the month except from his own production or as transfers from a pool plant(s).

**§ 968.13 Producer milk.**

"Producer milk" means all the skim milk and butterfat received at a pool plant directly from producers, diverted pursuant to § 968.8, or received from a cooperative association pursuant to § 968.11 (c) or (d).

**§ 968.14 Other source milk.**

"Other source milk" means all the skim milk and butterfat contained in:

(a) Receipts of fluid milk products and cottage cheese during the month except (1) fluid milk products and cottage cheese received from pool plants, or (2) producer milk; and

(b) Products, other than fluid milk products, from any source (including those produced at the plant) which are reprocessed or converted to another product in the plant during the month.

**§ 968.15 Fluid milk product.**

"Fluid milk product" means milk, skim milk, buttermilk, flavored milk, flavored milk drinks, yogurt, cream (except frozen and aerated cream), cultured sour cream, and any mixture (except frozen dessert mixes and eggnog) of cream and milk or skim milk.

**§ 968.16 Route.**

"Route" means any delivery (including delivery by a vendor or a sale from a plant or a plant store) of any fluid milk product other than a delivery to any milk processing plant.

**§ 968.17 Base milk.**

"Base milk" means producer milk received by handlers from a producer which is not in excess of such producer's daily base determined pursuant to § 968.90 multiplied by the number of days during the month for which milk was received from such producer: *Provided,* That during the months of June and July of 1959 all producer milk received by handlers from a producer shall be considered as base milk: *And provided further,* That with respect to any producer "on every-other-day" delivery to a pool plant the days of nondelivery shall be considered as days of delivery for the purposes of this section and of § 968.90.

**§ 968.18 Excess milk.**

"Excess milk" means producer milk received by handlers from a producer which is in excess of base milk received from such producer during the month.

MARKET ADMINISTRATOR

**§ 968.20 Designation.**

The agency for the administration of this part shall be a market administrator who shall be a person selected by the Secretary. Such person shall be entitled to such compensation as may be determined by, and shall be subject to removal at, the discretion of the Secretary.

**§ 968.21 Powers.**

The market administrator shall have the following powers with respect to this part:

(a) To administer its terms and provisions;

(b) To receive, investigate, and report to the Secretary complaints of violations;

(c) To make rules and regulations to effectuate its terms and provisions; and

(d) To recommend to the Secretary amendments thereto.

**§ 968.22 Duties.**

The market administrator shall perform all duties necessary to administer the terms and provisions of this part, including but not limited to the following:

(a) Within 45 days following the date upon which he enters upon his duties execute and deliver to the Secretary a bond, conditioned upon the faithful performance of his duties, in the amount and with surety thereon satisfactory to the Secretary;

(b) Employ and fix the compensation of such persons as may be necessary to enable him to administer its terms and provisions;

(c) Obtain a bond in a reasonable amount and with reasonable surety thereon covering each employee who handles funds entrusted to the market administrator;

(d) Pay out of funds provided by § 968.87 the cost of his bond and of the bonds of his employees, his own compensation, and all other expenses (except those incurred under § 968.86) necessarily incurred by him in the maintenance and functioning of his office and in the performance of his duties;

(e) Keep such books and records as will clearly reflect the transactions provided for in this part and surrender the same to his successor or to such other person as the Secretary may designate;

(f) Submit his books and records to examination by the Secretary and furnish such information and reports as the Secretary may request;

(g) Verify all reports and payments by each handler by inspection of such handler's records and of the records of any other handler or person upon whose utilization the classification of skim milk or butterfat for such handler depends;

(h) Publicly disclose to handlers and producers, unless otherwise directed by the Secretary, the name of any person who within 10 days after the date upon which he is required to perform such acts, has not:

(1) Made reports pursuant to §§ 968.30 to 968.32, or

(2) Made payments pursuant to §§ 968.80 to 968.87.

(i) Publicly announce by posting in a conspicuous place in his office and by such other means as he deems appropriate the prices determined for each month as follows:

(1) On or before the 5th day of each month the minimum price for Class I milk computed pursuant to § 968.51(a) and the Class I butterfat differential pursuant to § 968.52(a) both for the current month; and the minimum prices for Class II and Class III milk computed pursuant to § 968.51 (b) and (c) and the Class II and Class III butterfat differentials pursuant to § 968.52 (b) and (c), all for the previous month;

(2) On or before the 11th day of each month the uniform price computed pursuant to § 968.71 and the butterfat differential computed pursuant to § 968.81 (a) both for the previous month;

(j) Prepare and disseminate such statistics and information as he deems advisable and as do not reveal confidential information; and

(k) On or before the 13th day of each month report to each cooperative association, which so requests, the percentage utilization of milk received from producers in each class by each handler who in the previous month received milk from members of such cooperative association.

REPORTS, RECORDS, AND FACILITIES

**§ 968.30 Reports of receipts and utilization.**

On or before the 7th day after the end of each month each handler, except a producer-handler, shall, with respect to milk or milk products which were received or produced by such handler during such month, report to the market administrator in the detail and form prescribed by the market administrator, as follows:

(a) The quantities of skim milk and butterfat contained in milk received from each producer or approved dairy farmer, and the number of days for which milk was received from each producer;

(b) The quantities of skim milk and butterfat contained in receipts of milk, and milk products from other handlers;

(c) The quantities of skim milk and butterfat contained in receipts of other source milk (except Class III products disposed of in the form in which received without further processing or packaging by the handler);

(d) The utilization of all skim milk and butterfat the receipt of which is required to be reported pursuant to this section;

(e) The pounds of skim milk and butterfat contained in fluid milk products on hand at the beginning and at the end of the month;

(f) Such other information with respect to the receipts and use of milk as the market administrator may request, including a separate statement of skim milk and butterfat disposed of as Class I milk on routes within the marketing area.

**§ 968.31 Payroll reports.**

On or before the 20th day after the end of each month each handler shall submit to the market administrator his producer payroll for such month which shall show for each producer and each approved dairy farmer:

(a) His total deliveries of base milk and total deliveries of milk in excess of base milk;

(b) The average butterfat content of his milk; and

(c) The net amount of such handler's payments to such producer or approved dairy farmer with the prices, deductions, and charges involved.

**§ 968.32 Reports of producer-handlers.**

Each producer-handler shall make reports to the market administrator at such time and in such manner as the market administrator shall require.

**§ 968.33 Records and facilities.**

Each handler shall maintain and make available to the market administrator or to his representative during the usual hours of business such accounts and records of his operations and such facilities as are necessary for the market administrator to verify or establish the correct data with respect to:

(a) The receipts of producer milk and other source milk and the utilization of such receipts;

(b) The weights and tests for butterfat and other content of all milk, skim milk, cream and milk products handled;

(c) Payments to producers and cooperative associations; and

(d) The pounds of skim milk and butterfat contained in or represented by all fluid milk products on hand at the beginning and at the end of each month.

**§ 968.34 Retention of records.**

All books and records required under this part to be made available to the market administrator shall be retained by the handler for a period of three years to begin at the end of the calendar month to which such books and records pertain: *Provided,* That if, within such three-year periods, the market administrator notified the handler in writing that the retention of such books and records, or specified books and records, is necessary in connection with a proceeding under section 8c(15)(A) of the Act or a court action specified in such notice, the handler shall retain such books and records, or specified books and records, until further written notification from the market administrator. In either case the market administrator shall give further written notification to the handler promptly, upon the termination of the litigation or when the records are no longer necessary in connection therewith.

CLASSIFICATION

**§ 968.40 Skim milk and butterfat to be classified.**

All skim milk and butterfat received within the month by a handler which is required to be reported pursuant to § 968.30 shall be classified by the market administrator pursuant to the provisions contained in § 968.41 to § 968.46.

**§ 968.41 Classes of utilization.**

Subject to the conditions set forth in §§ 968.43 and 968.44, classes of utilization shall be as follows:

(a) Class I milk shall be all skim milk (including reconstituted skim milk) and butterfat (1) disposed of in the form of fluid milk products except those classified pursuant to paragraph (c)(7) of this section, (2) used to produce concentrated (including frozen) milk, flavored milk or flavored milk drinks disposed of for fluid consumption neither sterilized nor in hermetically sealed cans, and (3) all other skim milk and butterfat not specifically accounted for as Class II or Class III milk.

(b) Class II shall be all skim milk (including the skim milk equivalent of concentrated products) and butterfat used to produce cottage cheese in plants approved for the sale of cottage cheese in jurisdictions within the marketing area which require that cottage cheese be made from Grade A milk.

(c) Class III milk shall be all skim milk and butterfat: (1) Used to produce any product other than those products designated as Class I or Class II pursuant to paragraphs (a) and (b) of this section; (2) used for starter churning, wholesale baking and candy making; (3) disposed of as livestock feed; (4) in skim milk dumped after prior notification to and opportunity for verification by the market administrator; (5) in shrinkage of producer milk but not in excess of 2 percent of receipts of skim milk and butterfat directly from producers, plus 1.5 percent of receipts of skim milk and butterfat, respectively, transferred in bulk from pool plants of other handlers or received directly from cooperative associations pursuant to § 968.11(c), less 1.5 percent of skim milk and butterfat, respectively, disposed of in bulk lots to the pool plants of other handlers; (6) in shrinkage of other source milk; and (7) in inventory at the end of the month as any product specified in paragraph (a) of this section.

**§ 968.42 Shrinkage.**

The market administrator shall allocate shrinkage over a handler's receipts as follows:

(a) Compute the total shrinkage of skim milk and butterfat respectively, for each handler; and

(b) Prorate the resulting quantities between (1) the receipts of skim milk and butterfat in the net quantity of milk from producers, from cooperative associations pursuant to § 968.11 (c) and (d); and in bulk from pool plants of other handlers, and (2) the receipts of skim milk and butterfat in other source milk.

**§ 968.43 Responsibility of handlers and reclassification of milk.**

(a) All skim milk and butterfat shall be Class I milk unless the handler who first receives such skim milk or butterfat can prove to the market administrator that such skim milk or butterfat should be classified otherwise.

(b) Any skim milk or butterfat shall be reclassified if verification by the market administrator discloses that the original classification was incorrect.

**§ 968.44 Transfers.**

Skim milk and butterfat transferred or diverted by a handler shall be classified:

(a) At the class mutually indicated in writing to the market administrator by both handlers on or before the 7th day after the end of the month which such transaction occurred, otherwise as Class I milk, if transferred or diverted in the form of milk, skim milk or cream to the approved plant of another handler, subject in either event to the following conditions:

(1) The receiving handler has utilization in such class of an equivalent amount of skim milk and butterfat, respectively; and

(2) Such skim milk or butterfat shall be classified so as to allocate to producer milk the highest-priced possible utilization.

(b) As Class I milk if transferred in the form of milk, skim milk, or cream to a producer-handler.

(c) As Class I milk if transferred or diverted in bulk in the form of milk, skim milk or cream to an unapproved plant located more than 250 miles from the approved plant by the shortest highway distance as determined by the market administrator, except that (1) cream so transferred may be classified as Class III milk if its utilization as Class III milk is established through the operation of another Federal order for another milk marketing area; or (2) cream so transferred with prior notice to the market administrator, and with each container labeled or tagged with a certificate of the transferor that such cream is sold as "Grade C cream for manufacturing only", may be classified as Class III milk, subject to such verification of alternative utilization as the market administrator may make.

(d) As Class I milk, if transferred or diverted in the form of milk, skim milk or cream in bulk to an unapproved plant located less than 250 miles from the pool plant from which transferred, unless the market administrator is permitted to audit the records of receipts and utilization at such unapproved plant, in which case the classification of all skim milk and butterfat received at such unapproved plant shall be determined and the skim milk and butterfat transferred from the approved plant shall be allocated to the highest use remaining after subtracting, in series beginning with Class I milk, receipts of skim milk and butterfat at such unapproved plant from dairy farmers who the market administrator determines constitute the regular source of supply for Class I or Class II usage as defined in §§ 968.41 (a) and (b), respectively, by such unapproved plant in markets supplied by such plant.

(e) If any skim milk or butterfat is transferred to a second plant under paragraph (d) of this section the same conditions of audit classification and allocation shall apply.

**§ 968.45 Computation of the skim milk and butterfat in each class.**

For each month, the market administrator shall correct for mathematical and for other obvious errors the report of receipts and utilization submitted by each handler and shall compute the pounds of skim milk and butterfat in each class for such handler.

**§ 968.46 Allocation of skim milk and butterfat classified.**

After making the computation pursuant to § 968.45 the market administrator shall determine the classification of producer milk as follows:

(a) Skim milk shall be allocated in the following manner:

(1) Subtract from the total pounds of skim milk in Class III the pounds of skim milk determined pursuant to § 968.41 (c)(5);

(2) Subtract from the remaining pounds of skim milk, in series beginning with the lowest priced utilization, the pounds of skim milk in other source milk other than that to be subtracted pursuant to subparagraph (3) of this paragraph;

(3) Subtract from the remaining pounds of skim milk, in series beginning with the lowest priced utilization, the pounds of skim milk in other source milk received from a plant at which the handling of milk is fully subject to the pricing and payment provisions of another marketing agreement or order issued pursuant to the Act;

(4) Subtract from the remaining pounds of skim milk in series beginning with the lowest priced utilization, the pounds of skim milk in inventory at the

beginning of the month in the form of any product specified in § 968.41(a);

(5) Subtract from the remaining pounds of skim milk in each class the skim milk received from other handlers in the form of milk, skim milk or cream according to its classification as determined pursuant to § 968.44(a);

(6) Add to the remaining pounds of skim milk in Class III the pounds of skim milk subtracted pursuant to subparagraph (1) of this paragraph; and

(7) If the remaining pounds of skim milk in all classes exceed the pounds of skim milk received from producers, subtract such excess from the remaining pounds of skim milk in series beginning with the lowest priced utilization. Any amount so subtracted shall be called "overage."

(b) Butterfat shall be allocated in accordance with the same procedure outlined for skim milk in paragraph (a) of this section.

(c) Determine the weighted average butterfat content of producer milk in each class computed pursuant to paragraphs (a) and (b) of this section.

MINIMUM PRICES

**§ 968.50 Basic formula price to be used in determining Class I prices.**

The basic formula price to be used in determining the price per hundredweight of Class I milk shall be the higher of the prices computed pursuant to paragraphs (a) and (b) of this section.

(a) The average of the basic or field prices per hundredweight reported to have been paid or to be paid for milk of 3.5 percent butterfat content received from farmers during the month at the following plants or places for which prices have been reported to the market administrator or to the Department divided by 3.5 and multiplied by 3.8:

*Present Operator and Location*

Borden Co., Mount Pleasant, Mich.
Carnation Co., Sparta, Mich.
Pet Milk Co., Wayland, Mich.
Pet Milk Co., Coopersville, Mich.
Borden Co., Orfordville, Wis.
Carnation Co., New London, Wis.
Carnation Co., Richland Center, Wis.
Carnation Co., Oconomowoc, Wis.
Pet Milk Co., New Glarus, Wis.
Pet Milk Co., Belleville, Wis.
White House Milk Co., Manitowoc, Wis.
White House Milk Co., West Bend, Wis.

(b) The price per hundredweight computed by adding together the plus values pursuant to subparagraphs (1) and (2) of this paragraph:

(1) From the simple average as computed by the market administrator of the daily wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk creamery butter per pound at Chicago as reported by the Department during the month, subtract 3 cents, add 20 percent thereof and multiply by 3.8.

(2) From the simple average, as computed by the market administrator, of the weighted averages of carlot prices per pound for nonfat dry milk solids, spray and roller process, respectively, for human consumption, f.o.b. manufacturing plants in the Chicago area, as published for the period from the 26th day of the immediately preceding month through the 25th day of the current month by the Department, deduct 5.5 cents, multiply by 8.5, and then multiply by 0.962.

**§ 968.51 Class prices.**

Subject to the provisions of §§ 968.52 and 968.53, the minimum prices per hundredweight to be paid by each handler for milk received at his plant during the month shall be as follows:

(a) *Class I milk.* The price per hundredweight shall be the basic formula price for the preceding month plus $1.65 during all months of the year plus or minus a supply-demand adjustment of not more than 45 cents computed as follows:

(1) Divide the total receipts of milk from producers in the second and third months preceding by the total volume of Class I milk at pool plants (excluding interhandler transfers) for the same months, multiply the result by 100, and round to the nearest whole number. The result shall be known as the "current utilization percentage".

(2) Compute a "net deviation percentage" as follows:

(i) If the current utilization percentage is neither less than the minimum standard utilization percentage specified below nor in excess of the maximum standard utilization percentage specified below, the net deviation percentage is zero,

(ii) Any amount by which the current utilization percentage is less than the minimum standard utilization percentage specified below is a "minus net deviation percentage", and

(iii) Any amount by which the current utilization percentage exceeds the maximum standard utilization percentage specified below is a "plus net deviation percentage".

| Delivery period for which price applies | Delivery periods used in computation | Percentages | |
|---|---|---|---|
| | | Minimum | Maximum |
| January | October-November | 126 | 136 |
| February | November-December | 130 | 140 |
| March | December-January | 128 | 138 |
| April | January-February | 126 | 136 |
| May | February-March | 130 | 140 |
| June | March-April | 135 | 145 |
| July | April-May | 141 | 151 |
| August | May-June | 138 | 148 |
| September | June-July | 130 | 140 |
| October | July-August | 130 | 140 |
| November | August-September | 128 | 138 |
| December | September-October | 123 | 133 |

(3) For a minus net deviation percentage the Class I price shall be increased and for a plus deviation percentage the Class I price shall be decreased as follows:

(i) One cent for each such percentage point of net deviation; plus

(ii) One cent for each such percentage point of net deviation for which a percentage point of net deviation of like direction and up to the same amount was computed pursuant to subparagraph (2) of this paragraph in the computation of the Class I price applicable for the delivery period immediately preceding; plus

(iii) One cent for each such percentage point of net deviation for which percentage points of net deviation in like direction and up to the same amount were computed pursuant to subparagraph (2) of this paragraph in the computations of each of the Class I prices applicable for the first and second month immediately preceding.

(b) *Class II milk.* The price per hundredweight shall be the Class III price for the month, plus 80 cents.

(c) *Class III milk.* The price per hundredweight shall be the higher of the prices computed pursuant to subparagraphs (1) and (2) of this paragraph.

(1) The average of the basic or field prices reported to have been paid or to be paid for ungraded milk of 3.8 percent butterfat content received from farmers during the month at the following plants for which prices have been reported to the market administrator or the Department:

*Present Operator and Location*

American Foods Co., Miami, Okla.
Borden Co., Ft. Scott, Kans.
Kraft Foods Co., Nevada, Mo.
Pet Milk Co., Iola, Kans.
Swift and Co., Parsons, Kans.

(2) The average price reported by the Department for the current month for milk used in the manufacture of American Cheese, evaporated milk, and butter and by-products, f.o.b. plant, United States, adjusted to 3.8 percent butterfat basis by direct ratio.

**§ 968.52 Handler butterfat differential.**

If the average butterfat test of Class I, Class II or Class III milk as calculated pursuant to § 968.46 is more or less than 3.8 percent, there shall be added to, or subtracted from, as the case may be, the price for such class of utilization for each one-tenth of one percent that such average butterfat test is above or below 3.8 percent, a butterfat differential computed by multiplying the simple average, as computed by the market administrator, of the daily wholesale selling price per pound (using the midpoint of any price range as one price) of Grade A (92-score) bulk creamery butter at Chicago as reported by the Department during the month specified below by the applicable factor listed, and rounding to the nearest one-tenth cent:

(a) *Class I milk.* Multiply such price for the preceding month by 0.120;

(b) *Class II milk.* Multiply such price for the current month by 0.120;

(c) *Class III milk.* Multiply such price for the current month by 0.115.

**§ 968.53 Location differentials to handlers.**

For milk which is received at a plant located more than 70 miles by the shortest highway distance, as determined by the market administrator, from the courthouse at Wichita, Kansas, and which is classified as Class I milk, the prices computed pursuant to § 968.51(a) shall be reduced by 12 cents if such plant is located more than 70 miles but not more than 80 miles from such courthouse and by an additional 1.5 cents for each 10 miles or fraction thereof that such distance exceeds 80 miles: *Provided,* That for the purposes of calculating such differential, transfers between approved

plants shall be assigned to Class I milk in a volume not in excess of that by which Class I disposition at the transferee plant exceeds the receipts from producers at such plants, such assignment to transferor plants to be made first to plants at which no differential credit is applicable and then in the sequence at which the lowest location differential credit would apply.

**§ 968.54 Use of equivalent prices.**

If for any reason a price quotation required by this order for computing class prices or for other purposes is not available in the manner described, the market administrator shall use a price determined by the Secretary to be equivalent to the price which is required.

APPLICATION OF PROVISIONS

**§ 968.60 Producer-handlers.**

Sections 968.40 to 968.46, 968.50 to 968.54, 968.61, 968.62, 968.70, 968.72 and 968.80 to 968.88 shall not apply to a producer-handler.

**§ 968.61 Plants subject to other Federal orders.**

The provisions of this part shall not apply to a plant specified in paragraph (a) or (b) of this section except as follows: The operator of such plant shall, with respect to the total receipts and utilization or disposition of skim milk and butterfat at the plant, make reports to the market administrator at such time and in such manner as the market administrator may require, and allow verification of such reports by the market administrator.

(a) Any plant which would be subject to the classification and pricing provisions of another order issued pursuant to the act unless such plant qualifies as a pool plant pursuant to § 968.10 (a) or (b) and the Secretary determines that more Class I milk is disposed of from such plant to retail or wholesale outlets (except pool plants) in the Wichita marketing area than in the marketing area regulated pursuant to such other order.

(b) Any plant which would be subject to the classification and pricing provisions of another order issued pursuant to the act unless such plant qualifies as a pool plant pursuant to the provisions of § 968.10(c).

**§ 968.62 Handler operating an approved plant which is not a pool plant.**

Each handler who operates an approved plant which is not a pool plant during a month, shall in lieu of the payments required pursuant to § 968.80 to § 968.85, pay to the market administrator, for the producer-settlement fund, on or before the 25th day after the end of such month, the amount resulting from the computation of paragraph (a) of this section unless the handler elects the computation specified in paragraph (b) of this section.

(a) The product of the quantity of milk received by such handler which was (1) disposed of during the month in the marketing area on routes as Class I milk by the difference between the applicable Class I and the Class III prices or (2) used to produce cottage cheese so disposed of as Class II by the difference between the Class II and Class III prices.

(b) Any plus amount resulting from the following computation: From an amount equal to the net pool obligation which would be computed pursuant to § 968.70 for such handler for such month if such handler operated a pool plant deduct the gross payments made by such handler to approved dairy farmers for milk received during such month.

DETERMINATION OF UNIFORM PRICE TO PRODUCERS

**§ 968.70 Net pool obligations of handlers.**

The net pool obligation for milk received during each month by each handler shall be a sum of money computed as follows:

(a) Multiply the pounds of milk in each class computed pursuant to § 968.46 (c) by the applicable respective class prices and add together the resulting amounts;

(b) Add an amount computed by multiplying the pounds of overage deducted from each class pursuant to § 968.46(a)(7) and the corresponding step of § 968.46(b) by the applicable respective class prices;

(c) Add a reclassification charge equal to the difference between the Class I and Class III prices or the Class II and Class III prices, respectively, for the current month for skim milk and butterfat in inventory which is subtracted from Class I or Class II pursuant to § 968.46(a)(4) and the corresponding step of § 968.46(b) which is not in excess of the skim milk and butterfat remaining in Class III milk in the previous month pursuant to § 968.46(a)(5) and the corresponding step of § 968.46(b);

(d) For any other source skim milk or butterfat subtracted from Class I milk pursuant to § 968.46(a)(2) and the corresponding step of § 968.46(b) add an amount equal to the difference between the value of such skim milk and butterfat at the Class I price and at the Class III price and for any skim milk or butterfat so subtracted from Class II, add an amount equal to the difference in values of such skim milk and butterfat at the Class II price and the Class III price, unless the handler can prove to the satisfaction of the market administrator that such other source skim milk and butterfat was used only to the extent that producer milk was not available either directly from producers or at the plant of another handler at the applicable class price: *Provided,* That the Class I price specified above shall be subject to the location differential at plant of origin on other source milk received in the form of fluid milk products but not in the form of condensed skim milk or nonfat dry milk.

**§ 968.71 Computation of uniform prices for base milk and excess milk.**

For each month, the market administrator shall compute the uniform prices per hundredweight for base milk and excess milk as follows:

(a) Combine into one total the values computed pursuant to § 968.70 for all handlers who made the reports prescribed in § 968.30 and who made the payments pursuant to §§ 968.80 and 968.83 for the preceding month;

(b) Add an amount equal to not less than one-half of the unobligated cash balance in the producer-settlement fund;

(c) Subtract if the average butterfat content of the milk included in these computations is greater than 3.8 percent; or add if such average butterfat content is less than 3.8 percent an amount computed by multiplying the amount by which the average butterfat content of such milk varies from 3.8 percent by the butterfat differential computed pursuant to § 968.81 and multiplying the resulting figure by the total hundredweight of such milk;

(d) Add the total of the values of the applicable location differentials pursuant to § 968.81(b);

(e) Compute the total value on a 3.8 percent butterfat basis of the excess milk included in these computations by assigning such milk in series beginning with the lowest-priced utilization, multiplying the quantity so assigned to each use classification by the applicable class price, and adding together the resulting amounts;

(f) Divide the total value of excess milk obtained in paragraph (e) of this section by the total hundredweight of such milk and adjust to the nearest cent. The resulting figure shall be the uniform price for excess milk of 3.8 percent butterfat content received from producers;

(g) Subtract the value of excess milk obtained in paragraph (e) of this section from the value of all milk obtained in paragraph (c) of this section and adjust by any amount involved in adjusting the uniform price of excess milk to the nearest cent;

(h) Divide the amount obtained in paragraph (g) of this section by the total hundredweight of base milk included in these computations;

(i) Subtract not less than 4 cents nor more than 5 cents from the amount computed pursuant to paragraph (h) of this section. The resulting figure shall be the uniform price for base milk of 3.8 percent butterfat content received from producers at plants within the 70-mile zone.

**§ 968.72 Notification of handlers.**

On or before the 11th day of each month the market administrator shall notify each handler of:

(a) The quantity and value of his milk in each class computed pursuant to §§ 968.46 and 968.70 and the totals of such quantities and values;

(b) The uniform price computed pursuant to § 968.71;

(c) The amount, if any, due such handler from the producer-settlement fund;

(d) The total amounts to be paid by such handler pursuant to §§ 968.80 and 968.83; and

(e) The amount to be paid by such handler pursuant to §§ 968.86 and 968.87.

PAYMENTS

**§ 968.80 Time and method of payment.**

Each handler shall make payment as follows:

(a) On or before the second working day following the 11th day after the

end of the month during which the milk was received, to each producer for whom payment is not made pursuant to paragraph (c) of this section, at not less than the applicable uniform prices computed pursuant to § 968.71(i) and (f) for such producers' deliveries of base milk and excess milk, respectively, adjusted by the butterfat and location differentials computed pursuant to § 968.81, and less the amount of the payment made pursuant to paragraph (b) of this section. If by such date, such handler has not received full payment pursuant to § 968.84 he may reduce his total payments uniformly to all producers by not more than the amount of the reduction in payment by the market administrator. He shall, however, complete such payments pursuant to this paragraph not later than the date for making such payments next following receipt of the balance from the market administrator.

(b) On or before the 27th day of each month, to each producer (1) to whom payment is not made pursuant to paragraph (c) of this section, and (2) who is still delivering Grade A milk to such handler, an advance payment with respect to milk received from him during the first 15 days of such month computed at not less than 110 percent of the Class III price for 3.8 percent milk for the preceding month, without deduction for hauling.

(c) On or before the 14th day after the end of each month and on or before the 24th day of each month, in lieu of payments pursuant to paragraphs (a) and (b), respectively, of this section, to a cooperative association which so requests, for milk which it caused to be delivered to such handler from producers, and for which such association is determined by the market administrator to be authorized to collect payment, an amount equal to the sum of the individual payments otherwise payable to such producers. Such payments due on or before the 14th day after the end of the month shall be accompanied by a statement showing for each producer the items required to be reported pursuant to § 968.31, and payments due on or before the 24th day of the month shall be accompanied by a statement of the amount of money for each producer.

(d) On or before the 10th day after the end of each month, to each cooperative association, with respect to receipts of milk for which such cooperative association is defined as the handler pursuant to § 968.11 (c) and (d), not less than the value of such milk as classified pursuant to § 968.44(a) at the applicable respective class price(s).

**§ 968.81 Producer butterfat and location differentials.**

(a) *Producer butterfat differential.* In making payments pursuant to § 968.80(a) the uniform prices per hundredweight shall be adjusted for each one-tenth of one percent that the average butterfat content is above or below 3.8 percent by a butterfat differential equal to the average of the butterfat differentials determined pursuant to paragraphs (a), (b), and (c) of § 968.52, weighted by the pounds of butterfat in producer milk in each class, the result being rounded to the nearest tenth of a cent.

(b) *Producer location differential.* In making payments to producers and cooperative associations, a handler may deduct from the applicable uniform price with respect to all milk received from producers at a pool plant located more than 70 miles, by the shortest highway distance, as determined by the market administrator, from the courthouse at Wichita, Kansas, the same amount per hundredweight as is applicable to the plant, pursuant to § 968.53.

**§ 968.82 Producer-settlement fund.**

The market administrator shall establish and maintain a separate fund known as the "producer-settlement fund" into which he shall deposit all payments made by handlers pursuant to §§ 968.83, 968.85, and 968.62, and out of which he shall make all payments to handlers pursuant to §§ 968.84 and 968.85: *Provided,* That the market administrator shall offset any such payment due to any handler against payments due from such handler. Immediately after computing the uniform prices for each month, the market administrator shall compute the amount by which each handler's net pool obligation is greater or less than the sum obtained by multiplying the hundredweight of milk of producers by the appropriate prices required to be paid producers by handlers pursuant to § 968.80 and adding together the resulting amounts, and shall enter such amount on each handler's account as such handler's pool debit or credit, as the case may be, and render such handler a transcript of his account.

**§ 968.83 Payments to the producer-settlement fund.**

On or before the 12th day after the end of each month, each handler shall pay to the market administrator for payment to producers through the producer-settlement fund, the amount by which the net pool obligation of such handler is greater than the sum required to be paid producers by such handler pursuant to § 968.80.

**§ 968.84 Payments out of the producer-settlement fund.**

(a) On or before the 13th day after the end of each month, the market administrator shall pay to each handler for payment to producers the amount by which the sum required to be paid producers by such handler pursuant to § 968.80 is greater than the net pool obligation of such handler.

(b) If the balance in the producer-settlement fund is insufficient to make all payments pursuant to this paragraph, the market administrator shall reduce uniformly such payments and shall complete such payments as soon as the necessary funds are available.

**§ 968.85 Adjustment of errors in payments.**

(a) Whenever verification by the market administrator of reports or payments of any handler discloses error in payments to the producer-settlement fund made pursuant to § 968.83, the market administrator shall promptly bill such handler for any unpaid amount and such handler shall, within 5 days of such billing, make payment to the market administrator of the amount so billed. Whenever verification discloses that payment is due from the market administrator to any handler pursuant to § 968.84, the market administrator shall, within 5 days make payment to such handler. Whenever verification by the market administrator of the payment by a handler to any producer discloses payment to such producer of an amount which is less than is required by this part, the handler shall make up such payment to the producer not later than the time of making payment to producers next following the disclosure.

(b) Whenever verification by the market administrator of the payment by a handler to any producer discloses that solely through error in computation payment to such producer was in an amount more than was required to be paid pursuant to § 968.80, no handler shall be deemed to be in violation of § 968.80 if he reduces his payment to such producer next following discovery of such error by not more than such overpayment.

**§ 968.86 Marketing services.**

(a) Except as set forth in paragraph (b) of this section, each handler shall deduct 4 cents per hundredweight, or such lesser amount as the Secretary may prescribe, from the payments made to each producer other than himself pursuant to § 968.80(a) with respect to all milk of such producer received by such handler during the month and shall pay such deductions to the market administrator on or before the 12th day after the end of such month. Such moneys shall be used by the market administrator to verify weights, samples and tests of milk received from, and to provide market information to such producers. The market administrator may contract with a cooperative association or cooperative associations for the furnishing of the whole or any part of such services.

(b) In the case of producers for whom a cooperative association is actually performing, as determined by the Secretary, the services set forth in paragraph (a) of this section, each handler shall make such deductions from the payments to be made directly to producers pursuant to § 968.80(a) as are authorized by such producers, and, on or before the 12th day after the end of each month, pay over such deductions to the association of which such producers are members. When requested by the cooperative association a statement shall be supplied the cooperative association showing for each producer for whom such deduction is made the amount of such deduction, the total delivery of milk, and, unless otherwise previously provided, the butterfat test.

**§ 968.87 Expense of administration.**

As his pro rata share of the expense of administration of this part each handler (1) with respect to all milk received from approved dairy farmers, except that in the case of a handler who elects to compute his obligation under § 968.62(a) only with respect to the quantity of milk

disposed of as Class I or Class II in the marketing area and (2) with respect to other source milk allocated to Class I or Class II pursuant to § 968.46 during the month, shall pay to the market administrator, on or before the 12th day after the end of such month, an amount not exceeding 4 cents per hundredweight, which amount shall be determined by the market administrator subject to review by the Secretary. In the case of any handler operating a nonpool plant which is also subject to the assessment of administrative expense under another order, the payments due under this section shall be reduced by the amount of administrative expense payments under the other order.

**§ 968.88 Termination of obligation.**

The provisions of this section shall apply to any obligation under this part for the payment of money.

(a) The obligation of any handler to pay money required to be paid under the terms of this part shall, except as provided in paragraphs (b) and (c) of this section, terminate two years after the last day of the calendar month during which the market administrator receives the handler's utilization report on the milk involved in such obligation, unless within such two-year period the market administrator notifies the handler in writing that such money is due and payable. Service of such notice shall contain but need not be limited to, the following information:

(1) The amount of the obligation;

(2) The month(s) during which the milk, with respect to which the obligation exists, was received or handled; and

(3) If the obligation is payable to one or more producers or to an association of producers, the name of such producer(s) or association of producers, or if the obligation is payable to the market administrator, the account for which it is to be paid.

(b) If a handler fails or refuses, with respect to any obligation under this part, to make available to the market administrator or his representative all books and records required by this part to be made available, the market administrator may, within the two-year period provided for in paragraph (a) of this section, notify the handler in writing of such failure or refusal. If the market administrator so notifies a handler, the said two-year period with respect to such obligation shall not begin to run until the first day of the calendar month following the month during which all such books and records pertaining to such oblication are made available to the market administrator or his representatives.

(c) Notwithstanding the provisions of paragraphs (a) and (b) of this section, a handler's obligation under this part to pay money shall not be terminated with respect to any transaction involving fraud or willful concealment of a fact, material to the obligation, on the part of the handler against whom the obligation is sought to be imposed.

BASE RATING

**§ 968.90 Determination of daily base.**

(a) The daily average base of each producer who regularly delivered milk to a handler for 60 days or more during August through November of the next preceding calendar year shall be computed by the market administrator by dividing the total pounds of milk received by a handler from such producer during such months by the number of days within the period during which such producer made regular deliveries of milk in such months, or 90, whichever is greater: *Provided,* That in the case of producers delivering milk to a pool plant which was not a pool plant during all of the preceding months of August through November a daily average base for each such producer shall be computed pursuant to this paragraph on the basis of his verifiable deliveries of milk to such plant during the period August through November preceding the month in which the plant became a pool plant.

(b) The daily average base of each producer for whom no daily base may be established pursuant to paragraph (a) of this section shall be computed by the market administrator as follows:

(1) Multiply such producer's daily average deliveries of milk during the current month by the percentage that total deliveries of base milk in the current month by producers for whom daily bases are computed pursuant to paragraph (a) of this section are to total deliveries of milk in the current month by all producers; and

(2) For the months of January through July only, divide the result obtained in subparagraph (1) of this paragraph by 2.

**§ 968.91 Base rules.**

(a) Any producer who ceases to deliver milk to a handler for a period of more than 30 consecutive days shall forfeit his base. In the event such producer thereafter commences to deliver milk to a handler he shall be allotted a daily base computed in the manner provided in § 968.90(b).

(b) A landlord who rents on a share basis shall be entitled to the entire daily base to the exclusion of the tenant if the landlord owns the entire herd. A tenant who rents on a share basis shall be entitled to the entire daily base to the exclusion of the landlord, if the tenant owns the entire herd. If the cattle are jointly owned by the tenant and landlord, the daily base shall be divided between the joint owners according to ownership of the cattle when such share basis is terminated.

(c) A producer, whether landlord or tenant, may retain his base when moving his entire herd of cows from one farm to another: *Provided,* That at the beginning of a tenant and landlord relationship the base of each landlord and tenant may be combined and may be divided when such relationship is terminated.

(d) Base may be transferred only under the following conditions: (1) In case of the death of a producer, his base may be transferred to a surviving member or members of his family who carry on the dairy operations, and (2) on the retirement of a producer, his base may be transferred to an immediate member of his family who carries on the dairy operations.

(e) The base of two producers may be combined in the case of forming a partnership, or may be divided in the case of the dissolution of a partnership.

(f) For the purposes of this section and § 968.90 only, the term "producer" shall include any person who has been a producer as defined in § 968.8 but who has been suspended temporarily for failure to produce milk in conformity with the applicable health regulations.

EFFECTIVE TIME, SUSPENSION OR TERMINATION

**§ 968.100 Effective time.**

The provisions of this part, or any amendment to this part, shall become effective at such time as the Secretary may declare and shall continue in force until suspended or terminated, pursuant to § 968.101.

**§ 968.101 Suspension or termination.**

Any or all of the provisions of this part, or any amendment to this part, may be suspended or terminated as to any or all handlers after such reasonable notice as the Secretary shall give and shall, in any event, terminate whenever the provisions of the act cease to be in effect.

**§ 968.102 Continuing power and duty of the market administrator.**

(a) If, upon the suspension or termination of any or all provisions of this part there are any obligations arising under this part the final accrual or ascertainment of which requires further acts by any handler, by the market administrator, or by any other person, the power and duty to perform such further acts shall continue notwithstanding such suspension or termination: *Provided,* That any such acts required to be performed by the market administrator shall, if the Secretary so directs, be performed by such other person, persons, or agency as the Secretary may designate.

(b) The market administrator or such other person as the Secretary may designate, shall (1) continue in such capacity until removed, (2) from time to time account for all receipts and disbursements and when so directed by the Secretary deliver all funds on hand, together with the books and records of the market administrator, or such person, to such person as the Secretary shall direct, and (3) if so directed by the Secretary execute assignments or other instruments necessary or appropriate to vest in such person full title to all funds, property, and claims vested in the market administrator or such person pursuant thereto.

**§ 968.103 Liquidation after suspension or termination.**

Upon the suspension or termination of any or all provisions of this part the market administrator, or such person as the Secretary may designate, shall, if so directed by the Secretary, liquidate the business of the market administrator's office and dispose of all funds and property then in his possession or under his control, together with claims for any funds which are unpaid or owing at the time of such suspension or termination. Any funds collected pursuant to the pro-

visions of this part, over and above the amounts necessary to meet outstanding obligations and the expenses necessarily incurred by the market administrator or such person in liquidating such funds shall be distributed to the contributing handlers and producers in an equitable manner.

MISCELLANEOUS PROVISIONS

§ 968.110 Agents.

The Secretary may by designation, in writing name any officer or employee of the United States to act as his agent or representative in connection with any of the provisions of this part.

§ 968.111 Separability of provisions.

If any provisions of this part, or its application to any person or circumstances is held invalid, the application of such provision and of the remaining provisions of this part, to other persons or circumstances shall not be affected thereby.

[F.R. Doc. 59-3525; Filed, Apr. 24, 1959; 8:49 a.m.]

# CIVIL AERONAUTICS BOARD

[ 14 CFR Part 241 ]

[Economic Regs. Draft Release No. 108-A]

## UNIFORM SYSTEM OF ACCOUNTS FOR CERTIFICATED AIR CARRIERS

### "Use It or Lose It" Policy

EXTENSION OF TIME FOR FILING COMMENTS

APRIL 23, 1959.

The Board gave notice in 24 F.R. 2449 and by circulation of Civil Aeronautics Board Draft Release No. 108, dated March 24, 1959, that it had under consideration a proposed amendment to Part 241 of the Economic Regulations (14 CFR Part 241) designed to implement the "Use it or lose it" policy enunciated by the Board in its opinion in the Seven States Area Investigation, decided December 8, 1958 (Docket No. 7454 et al). The proposed amendment would require local service carriers to file monthly reports showing passenger loads for all flights and route segments over their systems. In its notice the Board requested that interested parties submit such comments as they may desire not later than April 27, 1959.

The Board has been requested to extend the date for return of comments on the proposal stated in its aforesaid notice.

The undersigned, acting under authority duly delegated by the Board, finds that good cause has been shown for the aforestated request and that the request is reasonable and not inconsistent with the public interest. Notice, therefore, is hereby given that the time within which comments on Draft Release No. 108 will be received is extended to May 4, 1959.

(Sec. 204(a) of the Federal Aviation Act, 72 Stat. 743; 49 U.S.C. 1324)

[SEAL] ROSS I. NEWMANN,
*Assistant General Counsel, Rules and Legislation.*

[F.R. Doc. 59-3583; Filed, Apr. 24, 1959; 9:34 a.m.]

# NOTICES

# DEPARTMENT OF THE TREASURY

## Bureau of Customs

[474.23]

## WOVEN LABELS, WHOLLY OR IN CHIEF VALUE OF SILK OR SYNTHETIC TEXTILE, MADE DIRECTLY FROM YARN IN A SINGLE CONTINUOUS PROCESS

### Notice of Change of Classification

APRIL 20, 1959.

The Bureau of Customs published a notice in the FEDERAL REGISTER dated November 25, 1958, that there was under review the practice of classifying woven labels, wholly or in chief value of silk or synthetic textile, made directly from yarn in a single continuous process designed so that they have no other use than to be cut between the designs and used as labels, and not first made into a fabric with fast edges and then into labels under paragraphs 1207 and 1308, Tariff Act of 1930, as articles made from fabrics with fast edges, dutiable at the rate of 19 percent ad valorem when in chief value of silk and at the rate of 25 cents per pound and 19 percent ad valorem when in chief value of synthetic textile. In view of judicial precedents with respect to similar merchandise the Bureau by its letter to the collector of Customs at New York, New York, dated April 20, 1959, ruled that these articles when in chief value of silk are classifiable under paragraph 1211 as manufactures in chief value of silk, not specifically provided for, dutiable at the modified rate of 27½ percent ad valorem, and when in chief value of synthetic textile are classifiable under paragraph 1312 as manufactures in chief value of rayon or other synthetic textile, dutiable at the modified rate of 25 cents per pound and 30 percent ad valorem.

As this ruling will result in the assessment of duty at a higher rate than has heretofore been assessed under a uniform and established practice, it shall be applied to such or similar merchandise only when entered, or withdrawn from warehouse, for consumption after 90 days after the date of publication of an abstract of this decision in the weekly Treasury Decisions.

[SEAL] D. B. STRUBINGER,
*Acting Commissioner of Customs.*

[F.R. Doc. 59-3520; Filed, Apr. 24, 1959; 8:49 a.m.]

## Office of the Secretary

[AA 643.3]

## WOOD LOUNGE FRAMES FROM YUGOSLAVIA

### Determination of No Sales at Less Than Fair Value

APRIL 21, 1959.

A complaint was received that wood lounge frames from Yugoslavia were being sold in the United States at less than fair value within the meaning of the Antidumping Act, 1921.

I hereby determine that wood lounge frames from Yugoslavia are not being, nor are likely to be, sold in the United States at less than fair value within the meaning of section 201(a) of the Antidumping Act, 1921, as amended (19 U.S.C. 160(a)).

*Statement of reasons.* The lounge frames are made exclusively for the United States market and are not sold in Yugoslavia or to other countries. Consequently, constructed value was used for fair value purposes. Purchase price was found to be not less than constructed value.

This determination and the statement of reasons therefor are published pursuant to section 201(c) of the Antidumping Act, 1921, as amended (19 U.S.C. 160(c)).

[SEAL] A. GILMORE FLUES,
*Acting Secretary of the Treasury.*

[F.R. Doc. 59-3521; Filed, Apr. 24, 1959; 8:49 a.m.]

# DEPARTMENT OF DEFENSE

## Office of the Secretary

## ASSISTANT SECRETARY OF DEFENSE (INTERNATIONAL SECURITY AFFAIRS)

### Delegation of Authority Regarding Strategic Security Trade Controls on Foreign Excess Personal Property

The Secretary of Defense approved the following on April 10, 1959:

I. *Purpose.* The purpose of this directive is to set forth the strategic security trade control policy governing the sales of United States military foreign excess property.

II. *Applicability and scope.* This directive is applicable to sales of all foreign excess personal property and contractor inventory located in foreign areas, except sales to friendly foreign governments, retail sales, or when such property is located in Canada, Panama Canal Zone, Guam, Canton and Enderbury Islands, and American Samoa.

III. *Definition.* A. The "Sino-Soviet Bloc" includes all countries listed in the Armed Services Procurement Regulation, paragraph 6–401.2.

B. Other terms used herein are defined in DOD Instruction 4160.4, subject, "Preparation for Sale and Sales of Surplus Personal Property, Including Foreign Excess."

IV. *Policy.* It is the policy of the Department of Defense that U.S. military foreign excess personal property will not be sold directly or indirectly to the Sino-Soviet Bloc.

V. *Controls.* Adequate safeguards and controls will be exercised over sales to preclude property under the control of the DOD from reaching the Sino-Soviet Bloc by:

A. Inclusion of appropriate terms and conditions in the contract of sale.

B. Assuring that buyers are acceptable from the United States viewpoint.

C. Obtaining knowledge of the buyers' intended use and destination of the property.

D. The use of measures designed to preclude diversion and, when appropriate, to verify that property reached the acceptable destination designated by the buyer(s).

VI. *Delegation of authority.* The Assistant Secretary of Defense (ISA), after coordination with the Assistant Secretary of Defense (S&L), is authorized, subject to the authority, direction and control of the Secretary of Defense, as provided by law, to take the necessary action, including the issuance of instructions, to supplement this directive.

MAURICE W. ROCHE,
*Administrative Secretary.*

[F.R. Doc. 59-3498; Filed, Apr. 24, 1959; 8:46 a.m.]

# DEPARTMENT OF THE INTERIOR

## Bureau of Indian Affairs

[Juneau Area Office Redelegation Order 1, Amdt. 2]

### ASSISTANT AREA DIRECTOR AND AREA ADMINISTRATIVE OFFICER

### Redelegation of Authority With Respect to Construction, Supply and Service Contracts and Negotiating Contracts for Services of Engineering and Architectural Firms

Order 1 (20 F.R. 5508), as amended (21 F.R. 5943), is revised to read as follows:

SECTION 1. *Redelegation of authority and designation of contracting officers.* (a) The authority delegated to the Area Director by the Commissioner of Indian Affairs in Order 566, as amended (23 F.R. 5611), to negotiate without advertising in accordance with Title III of the Federal Property and Administrative Services Act of 1949, as amended (41 U.S.C. 251 et seq.), under section 302(c)(4) of the Act, contracts for services of engineering and architectural firms and to enter into construction, supply and service contracts irrespective of the amounts involved, is redelegated to each of the following officials or anyone acting for them: the Assistant Area Director and the Area Administrative Officer. Each of these officials or anyone acting for them is also designated as and is authorized to perform the duties of the Contracting Officer.

(b) The Area Property and Supply Officer, on anyone acting for him, may enter into contracts for supplies and services and perform the duties of Contracting Officer in regard to such contracts in amounts not to exceed $10,000 for any one contract.

(c) The Administrative Officer and Special Representative, Seattle, or anyone acting for him, may enter into contracts for supplies and services and perform the duties of Contracting Officer in regard to such contracts in connection with the operation and maintenance of U.S.M.S. "North Star."

SEC. 2. *Authorized representative of contracting officers.* (a) The Assistant Area Director, or anyone acting for him, is designated as and may perform the duties of the authorized representative of the Contracting Officer as such term is used in such contracts for contracts entered into by the Area Director or anyone acting for him.

(b) The Area Administrative Officer, or anyone acting for him, is designated as and may perform the duties of the authorized representative of the Contracting Officer as such term is used in such contracts for contracts entered into by the Assistant Area Director or anyone acting for him.

(c) Authorized representatives of Contracting Officers, or anyone acting for them, are not authorized to take final action on those functions relating:

(1) To the termination of a contract;

(2) To disputes concerning questions of fact which are not disposed of by agreement.

SEC. 3. *Appeals.* An appeal from a findings of fact or decision of a Contracting Officer shall be made by notice of appeal in writing addressed to the Board of Contract Appeals, Office of the Solicitor, Department of the Interior, Washington 25, D.C., and shall be mailed to or filed with the Contracting Officer, within the time allowed by the contract. The notice of appeal shall specify the portion of the findings of fact or decision from which the appeal is taken, and the reasons why the findings or decisions are deemed erroneous. Immediately upon receipt of the notice of appeal, the Contracting Officer shall inform the Board by air mail that the appeal has been received.

(Regulations governing appeals are published in 19 F.R. 9389)

Dated: April 17, 1959.

JAMES E. HAWKINS,
*Area Director.*

Approved:

GLENN L. EMMONS,
*Commissioner.*

[F.R. Doc. 59-3510; Filed, Apr. 24, 1959; 8:48 a.m.]

## Bureau of Land Management

[81949]

### MICHIGAN

### Notice of Filing of Plat of Survey and Order Providing for Opening of Public Lands

APRIL 21, 1959.

Plat of Survey of the land described below, accepted February 4, 1959, will be officially filed in the Eastern States Land Office, Bureau of Land Management, Department of the Interior, Washington 25, D.C., effective 10:00 a.m., on June 1, 1959.

MICHIGAN MERIDIAN, MICHIGAN

T. 10 N., R. 9 W.,
Sec. 15, Lot 7 (Island);
Sec. 22, Lot 7 (Island);
Containing 0.37 acre.

This plat represents the survey of an island in Lincoln Lake which was not included in the original survey of T. 10 N., R. 9 W., as represented upon the plat approved March 12, 1839.

The island is spongy black organic muck of 12 to 18 inches depth overlaying a sandy marl, and is 12 to 18 inches above the present level of the lake. The island is covered with a dense growth of willow, miscellaneous brush and some small unidentified trees in its center being 4 to 6 inches in diameter. The island in all likelihood is overflowed during the spring rises and quite possibly overrun as the spring breakup pushes ice upon it. There is a duck blind and poor dock upon the island in sec. 22, owned by the applicant for the survey. The island is considered to have been 100 percent swamp and overflow within the meaning of the acts of March 2, 1849 (9 Stat. 352) and September 28, 1850 (9 Stat. 519).

No application may be allowed under the homestead or small tract or any other nonmineral public land laws unless the lands have already been classified as valuable or suitable for such type of application or shall be so classified upon consideration of an application. Any application that is filed will be considered on its merit. The lands will not be subject to occupancy or disposition until they have been classified.

Applications and selections under nonmineral public land laws and applications and offers under the mineral leasing laws may be presented to the Manager, mentioned below, beginning on the date of this order. Such applications, selections, and offers will be considered as filed on the hour and respective dates shown for the various classes enumerated in the following paragraphs:

1. Applications by persons having prior existing valid settlement rights, preference rights conferred by existing laws, or equitable claims subject to allowance and confirmation will be adjudicated on the facts presented in support of each claim or right. All applications presented by persons other than those referred to in this paragraph will be subject to the applications and claims mentioned in this paragraph.

2. All valid applications, under the Homestead and Small Tract Laws, by

qualified veterans of World War II or of the Korean Conflict, and by others entitled to preference rights under the Act of September 27, 1944 (58 Stat. 747; 43 U.S.C. 274–284 as amended), presented prior to 10:00 a.m., on June 1, 1959, will be considered as simultaneously filed at that hour. Rights under such preference right applications filed after that hour and before 10:00 a.m., on September 1, 1959, will be governed by the time of filing.

3. All valid applications and selections under the nonmineral public land laws, other than those coming under paragraph (1) and (2) above, and applications and offers under the mineral leasing laws, presented prior to 10:00 a.m., September 1, 1959, will be considered filed simultaneously at that hour. Rights under such applications and selections filed after that hour will be governed by the time of filing.

All inquiries relating to the lands should be addressed to the Manager, Eastern States Land Office, Bureau of Land Management, Department of the Interior, Washington 25, D.C.

[SEAL] E. J. CONOVER,
*Acting Manager.*

[F.R. Doc. 59-3511; Filed, Apr. 24, 1959; 8:48 a.m.]

# DEPARTMENT OF AGRICULTURE

## Commodity Stabilization Service

## SUGARCANE WAGES AND PRICES IN FLORIDA

### Notice of Hearing and Designation of Presiding Officers

Pursuant to the authority contained in subsections (c) (1) and (c) (2) of section 301 of the Sugar Act of 1948, as amended, (61 Stat. 929; 7 U.S.C. Sup. 1131), and in accordance with the rules of practice and procedure applicable to fair price and wage proceedings (7 CFR 802.1 et seq.), notice is hereby given that a public hearing will be held in Clewiston, Florida, in the Sugarland Park Auditorium on May 14, 1959, beginning at 10:00 a.m.

The purpose of this hearing is to receive evidence which may be of assistance to the Secretary of Agriculture in determining (1) pursuant to the provisions of section 301(c) (1) of the Act, fair and reasonable wage rates for persons employed in the production, cultivation, or harvesting of sugarcane in Florida during the period July 1, 1959 through June 30, 1960, on farms with respect to which applications for payment under the Act are made, and (2) pursuant to the provisions of section 301(c) (2) of the Act, fair and reasonable prices for the 1959 crop of sugarcane to be paid, under either purchase or toll agreements, by producers who process sugarcane grown by other producers and who apply for payments under the Act.

In the interest of obtaining the best possible information, all interested persons are requested to appear at the hearing to express their views and present appropriate data in regard to wages and prices.

The hearing, after being called to order at the time and place mentioned herein, may be continued from day to day within the discretion of the presiding officers and may be adjourned to a later day or to a different place without notice other than the announcement thereof by the presiding officers.

A. A. Greenwood, Ward S. Stevenson, and William N. Garrett are hereby designated as presiding officers to conduct either jointly or severally the foregoing hearing.

Issued this 22d day of April 1959.

[SEAL] LAWRENCE MYERS,
*Director, Sugar Division, Commodity Stabilization Service.*

[F.R. Doc. 59-3524; Filed, Apr. 24, 1959; 8:49 a.m.]

# FEDERAL POWER COMMISSION

[Docket No. G-18266]

## SHELL OIL CO.

### Order for Hearing and Suspending Proposed Changes in Rates

APRIL 20, 1959.

Shell Oil Company (Shell), on March 23, 1959, tendered for filing proposed changes in its presently effective rate schedules for sales of natural gas subject to the jurisdiction of the Cimmission. The proposed changes which constitute increased rates and charges are contained in the following designated filing:

Description: Two notices of change, dated March 20, 1959.
Purchaser: El Paso Natural Gas Company.
Rate schedule designations: Supplement No. 11 to Shell's FPC Gas Rate Schedule No. 17.[1] Supplement No. 3 to Shell's FPC Gas Rate Schedule No. 108.[1]
Effective date: April 23, 1959 (stated effective date is the date proposed by Shell).

In support of the proposed favored nation rate increases, Shell cites the contract provisions and states that said contracts were entered into in good faith following arm's-length bargaining. Shell states that the proposed price does not exceed the fair market value of the gas in the area and that the pricing provisions constitute an integral part of the contract's consideration.

On April 3, 1959, El Paso, inter alia, filed a formal protest to the acceptance for filing of the subject rate changes, alleging that the changes are unsupported by the contracts.

The Commission finds: It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that the Commission enter upon a hearing concerning the lawfulness of the said proposed changes and that Supplement No. 11 to Shell's FPC Gas Rate Schedule No. 17 and Supplement No. 3 to Shell's FPC Gas Rate Schedule No. 108 be suspended and the use thereof deferred as hereinafter ordered.

[1] Rate in effect subject to refund in Docket No. G-16254.

The Commission orders:

(A) Pursuant to the authority of the Natural Gas Act, particularly sections 4 and 15 thereof, the Commission's rules of practice and procedure, and the regulations under the Natural Gas Act (18 CFR Ch. I), a public hearing be held upon a date to be fixed by notice from the Secretary concerning the lawfulness of the proposed increased rates and charges contained in Supplement No. 11 to Shell's FPC Gas Rate Schedule No. 17 and Supplement No. 3 to Shell's FPC Gas Rate Schedule No. 108.

(B) Pending such hearing and decision thereon, said supplements be and they are each hereby suspended and the use thereof deferred until September 23, 1959, and thereafter until such further time as each is made effective in the manner prescribed by the Natural Gas Act.

(C) Neither the supplements hereby suspended nor the rate schedules sought to be altered thereby shall be changed until the proceeding has been disposed of or until the periods of suspension have expired, unless otherwise ordered by the Commission.

(D) Interested State commissions may participate as provided by §§ 1.8 and 1.37(f) of the Commission's rules of practice and procedure (18 CFR 1.8 and 1.37(f)).

By the Commission.

[SEAL] JOSEPH H. GUTRIDE,
*Secretary.*

[F.R. Doc. 59-3499; Filed, Apr. 24, 1959; 8:46 a.m.]

[Docket No. G-18267]

## SHELL OIL CO. ET AL.

### Order for Hearing and Suspending Proposed Changes in Rates

APRIL 20, 1959.

Shell Oil Company (Operator) et al. (Shell) on March 23, 1959, tendered for filing proposed changes in its presently effective rate schedules for the sales of natural gas subject to the jurisdiction of the Commission. The proposed changes, which constitute increased rates and charges, are contained in the following designated filings:

Description: Two notices of change, dated March 20, 1959.
Purchaser: El Paso Natural Gas Company.
Rate schedule designations: (1) Supplement No. 9 to Shell's FPC Gas Rate Schedule No. 18.[1] (2) Supplement No. 11 to Shell's FPC Gas Rate Schedule No. 20.[1]
Effective date: April 23, 1959 (stated effective date is the date proposed by Shell).

In support of the proposed favored nation rate increases, Shell cites the contract provisions and states that said contracts were entered into in good faith following arm's-length bargaining. Shell states that the proposed price does not exceed the fair market value of the gas in the area and that the pricing provisions constitute an integral part of the contract's consideration.

[1] Rate in effect subject to refund in Docket No. G-16253.

On April 3, 1959, El Paso, inter alia, filed a formal protest to the acceptance for filing of the subject rate changes alleging that the changes are unsupported by the contracts.

The increased rates and charges so proposed have not been shown to be justified, and may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commission finds: It is necessary and proper in the public interest and to aid the enforcement of the provisions of the Natural Gas Act that the Commission enter upon a hearing concerning the lawfulness of the said proposed charges and that Supplement No. 9 to Shell's FPC Gas Rate Schedule No. 18 and Supplement No. 11 to Shell's FPC Gas Rate Schedule No. 20 be suspended and the use thereof deferred as hereinafter ordered.

The Commission orders:

(A) Pursuant to the authority of the Natural Gas Act, particularly sections 4 and 15 thereof, the Commission's rules of practice and procedure, and the regulations under the Natural Gas Act (18 CFR Ch. I), a public hearing be held upon a date to be fixed by notice from the Secretary concerning the lawfulness of the proposed increased rates and charges contained in Supplement No. 9 to Shell's FPC Gas Rate Schedule No. 18, and Supplement No. 11 to Shell's FPC Gas Rate Schedule No. 20.

(B) Pending such hearing and decision thereon, said Supplements be and they are each hereby suspended and the use thereof deferred until September 23, 1959, and thereafter until such further time as each is made effective in the manner prescribed by the Natural Gas Act.

(C) Neither the supplements hereby suspended nor the rate schedules sought to be altered thereby shall be changed until this proceeding has been disposed of or until the periods of suspension have expired, unless otherwise ordered by the Commission.

(D) Interested State commissions may participate as provided by §§ 1.8 and 1.37(f) of the Commission's rules of practice and procedure (18 CFR 1.8 and 1.37(f)).

By the Commission.

[SEAL] JOSEPH H. GUTRIDE, *Secretary.*

[F.R. Doc. 59-3500; Filed, Apr. 24, 1959; 8:46 a.m.]

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[Docket No. G-18275]

## EDWIN L. COX

### Order for Hearing and Suspending Proposed Changes in Rates

APRIL 20, 1959.

Edwin L. Cox (Cox) on March 27, 1959, tendered for filing proposed changes in his presently effective rate schedules[1] for sales of natural gas subject to the jurisdiction of the Commission. The proposed changes, which constitute increased rates and charges, are contained in the following designated filings:

Description: Notices of Change, dated March 23, 1959.

Purchaser: Natural Gas Pipeline Company of America.

Rate schedule designation: Supplement No. 6 to Cox's FPC Gas Rate Schedule No. 10. Supplement No. 3 to Cox's FPC Gas Rate Schedule No. 21.

Effective date: May 10, 1959 (stated effective date is the effective date proposed by Cox).

In support of the proposed periodic rate increases, Cox cites the contract provisions therefor and states that the increase merely results from the mechanical operation of the contract provisions which are common in long-term contracts and enable buyer to receive initial deliveries of gas at a low price during the time its unamortized capital investment is high and enable seller to receive progressively higher returns contemporaneously with increasing costs.

The increased rates and charges so proposed have not been shown to be justified, and may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commission finds: It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that the Commission enter upon a hearing concerning the lawfulness of the said proposed changes, and that Supplement No. 6 to Cox's FPC Gas Rate Schedule No. 10, and Supplement No. 3 to Cox's FPC Gas Rate Schedule No. 21, be suspended and the use thereof deferred as hereinafter ordered.

The Commission orders: (A) Pursuant to the authority of the Natural Gas Act, particularly sections 4 and 15 thereof, the Commission's rules of practice and procedure, and the regulations under the Natural Gas Act (18 CFR Ch. I), a public hearing be held upon a date to be fixed by notice from the Secretary concerning the lawfulness of the proposed increased rates and charges contained in Supplement No. 6 to Cox's FPC Gas Rate Schedule No. 10, and Supplement No. 3 to Cox's FPC Gas Rate Schedule No. 21.

(B) Pending such hearing and decision thereon, said supplements be and they are each hereby suspended and the use thereof deferred until October 10, 1959, and until such further time as they are made effective in the manner prescribed by the Natural Gas Act.

(C) Neither the supplements hereby suspended nor the rate schedules sought to be altered thereby shall be changed until this proceeding has been disposed of or until the periods of suspension have expired, unless otherwise ordered by the Commission.

(D) Interested State commissions may participate as provided by §§ 1.8 and 1.37(f) of the Commission's rules of practice and procedure (18 CFR 1.8 and 1.37(f)).

By the Commission.

[SEAL] JOSEPH H. GUTRIDE, *Secretary.*

[F.R. Doc. 59-3504; Filed, Apr. 24, 1959; 8:47 a.m.]

[1] Supplement No. 5 to Cox's FPC Gas Rate Schedule No. 10 previously suspended and is in effect subject to refund in Docket No. G-15012 (also subject to Commission's orders in Docket Nos. G-14662 and G-12540).

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[Docket No. G-18271]

## SINCLAIR OIL & GAS CO.

### Order for Hearing and Suspending Proposed Change in Rates

APRIL 20, 1959.

Sinclair Oil & Gas Company (Sinclair) on March 24, 1959, tendered for filing a proposed change in its presently effective rate schedule[1] for sales of natural gas subject to the jurisdiction of the Commission. The proposed change, which constitutes an increased rate and charge, is contained in the following designated filing.

Description: Notice of change, dated March 20, 1959.

Purchaser: Natural Gas Pipeline Company of America.

Rate schedule designation: Supplement No. 4 to Sinclair's FPC Gas Rate Schedule No. 140.

Effective date: May 10, 1959 (stated effective date is the effective date proposed by Sinclair).

In support of the proposed periodic rate increase, Sinclair cites the contract provision therefor and states that the increased price will not result in an excessive rate of return.

The increased rate and charge so proposed has not been shown to be justified, and may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commission finds: It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that the Commission enter upon a hearing concerning the lawfulness of the said proposed change, and that Supplement No. 4 to Sinclair's FPC Gas Rate Schedule No. 140 be suspended and the use thereof deferred as hereinafter ordered.

The Commission orders:

(A) Pursuant to the authority of the Natural Gas Act, particularly sections 4 and 15 thereof, the Commission's rules of practice and procedure, and the regulations under the Natural Gas Act (18 CFR Ch. I), a public hearing be held upon a date to be fixed by notice from the Secretary concerning the lawfulness of the proposed increased rate and charge contained in Supplement No. 4 to Sinclair's FPC Gas Rate Schedule No. 140.

(B) Pending such hearing and decision thereon, said supplement be and it is hereby suspended and the use thereof deferred until October 10, 1959, and until such further time as it is made effective

[1] Present rate previously suspended and is in effect subject to refund in Docket No. G-15029.

in the manner prescribed by the Natural Gas Act.

(C) Neither the supplement hereby suspended nor the rate schedule sought to be altered thereby shall be changed until this proceeding has been disposed of or until the period of suspension has expired, unless otherwise ordered by the Commission.

(D) Interested State commissions may participate as provided by §§ 1.8 and 1.37(f) of the Commission's rules of practice and procedure (18 CFR 1.8 and 1.37(f)).

By the Commission.

[SEAL] JOSEPH H. GUTRIDE, *Secretary.*

[F.R. Doc. 59-3501; Filed, Apr. 24, 1959; 8:46 a.m.]

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[Docket No. G-18273]

## PHILLIPS PETROLEUM CO.

### Order for Hearing and Suspending Proposed Change in Rates

APRIL 20, 1959.

Phillips Petroleum Company (Operator) (Phillips) on March 25, 1959, tendered for filing a proposed change in its presently effective rate schedule [1] for sales of natural gas subject to the jurisdiction of the Commission. The proposed change, which constitutes an increased rate and charge, is contained in the following designated filing:

Description: Notice of change, dated March 23, 1959.

Purchaser: Consolidated Gas Utilities Corporation.

Rate schedule designation: Supplement No. 16 to Phillips' FPC Gas Rate Schedule No. 19.

Effective date: May 12, 1959 (stated effective date is the effective date proposed by Phillips).

In support of the proposed periodic rate increase, Phillips cites the contract provisions therefor and states that such provisions were arrived at by arm's-length bargaining and are advantageous to both buyer and seller. In addition, Phillips states that the increased price is not unjust or unreasonable and is substantially less than the going market price for gas in the area. Phillips also refers to cost of service exhibits presented in evidence in the suspension proceedings in Docket Nos. G-1148, et al.

The increased rate and charge so proposed has not been shown to be justified, and may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commission finds: It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that the Commission enter upon a hearing concerning the lawfulness of the said proposed change, and that Supplement No. 16 to Phillips' FPC Gas Rate Schedule No. 19 be suspended and the use thereof deferred as hereinafter ordered.

The Commission orders:

(A) Pursuant to the authority of the Natural Gas Act, particularly sections 4 and 15 thereof, the Commission's rules of practice and procedure, and the regulations under the Natural Gas Act (18 CFR Ch. I), a public hearing be held upon a date to be fixed by notice from the Secretary concerning the lawfulness of the proposed increased rate and charge contained in Supplement No. 16 to Phillips' FPC Gas Rate Schedule No. 19.

(B) Pending such hearing and decision thereon, said supplement be and it is hereby suspended and the use thereof deferred until October 12, 1959, and until such further time as it is made effective in the manner prescribed by the Natural Gas Act.

(C) Neither the supplement hereby suspended nor the rate schedule sought to be altered thereby shall be changed until this proceeding has been disposed of or until the period of suspension has expired, unless otherwise ordered by the Commission.

(D) Interested State commissions may participate as provided by §§ 1.8 and 1.37 (f) of the Commission's rules of practice and procedure (18 CFR 1.8 and 1.37(f)).

By the Commission.

[SEAL] JOSEPH H. GUTRIDE, *Secretary.*

[F.R. Doc. 59-3502; Filed, Apr. 24, 1959; 8:46 a.m.]

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[Docket No. G-18274]

## J. C. TRAHAN ET AL.

### Order for Hearing, Suspending Proposed Change in Rate, and Allowing Changed Rate To Become Effective

APRIL 20, 1959.

J. C. Trahan (Operator) et al. (Trahan) on March 25, 1959, tendered for filing a proposed change in this presently effective rate schedule [1] for sales of natural gas subject to the jurisdiction of the Commission. The proposed change, which constitutes an increased rate and charge, is contained in the following designated filing:

Description: Notice of change, dated March 23, 1959.

Purchaser: Arkansas Louisiana Gas Company.

Rate schedule designation: Supplement No. 5 to Trahan's FPC Gas Rate Schedule No. 8.

Effective date: April 25, 1959 (stated effective date is the effective date proposed by Trahan).

In support of the proposed periodic rate increase, Trahan states that the contract resulted from arm's-length negotiations, that it would not have executed such long-term contract without provision for periodic price escalations, and that the increased price is just and reasonable and denial thereof would be discriminatory. Trahan also cites increasing costs of maintaining existing service and exploration for new reserves.

The increased rate and charge so proposed has not been shown to be justified, and may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commission finds:

(1) It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that the Commission enter upon a hearing concerning the lawfulness of the proposed change, and that Supplement No. 5 to Trahan's FPC Gas Rate Schedule No. 8 be suspended and the use thereof deferred as hereinafter ordered.

(2) It is necessary and proper in the public interest in carrying out the provisions of the Natural Gas Act that the proposed rate be made effective as hereinafter provided and that Trahan be required to file an undertaking as hereinafter ordered and conditioned.

The Commission orders:

(A) Pursuant to the authority of the Natural Gas Act, particularly sections 4 and 15 thereof, the Commission's rules of practice and procedure, and the regulations under the Natural Gas Act (18 CFR Ch. I), a public hearing be held upon a date to be fixed by notice from the Secretary concerning the lawfulness of the proposed rate and charge contained in Supplement No. 5 to Trahan's FPC Gas Rate Schedule No. 8.

(B) Pending such hearing and decision thereon, the supplement is hereby suspended and the use thereof deferred until April 26, 1959, and thereafter until such further time as it is made effective in the manner hereinafter prescribed.

(C) The rate, charge, and classification set forth in the supplement shall be effective on April 26, 1959: *Provided, however,* That within 20 days from the date of this order, Trahan shall execute and file with the Secretary of the Commission the agreement and undertaking described in paragraph (E) below.

(D) Trahan shall refund at such times and in such amounts to the persons entitled thereto, and in such manner as may be required by final order of the Commission, the portion of the increased rate found by the Commission in this proceeding not justified, together with interest thereon at the rate of six percent per annum from the date of payment to Trahan until refunded; shall bear all costs of any such refunding; shall keep accurate accounts in detail of all amounts received by reason of the changed rate and charge allowed by this order to become effective, for each billing period, specifying by whom and in whose behalf such amounts were paid; and shall report (original and one copy) in writing and under oath to the Commission monthly (or quarterly if Trahan so elects) for each billing period and for each purchaser the billing determinants of natural gas sales to such purchasers and the revenues resulting therefrom, as computed both under the rate in effect

[1] Present rate previously suspended and is in effect subject to refund in Docket No. G-14930 (also subject to the Commission's orders in Docket Nos. G-12460, G-10359 and G-8883).

[1] Present rate previously suspended and is in effect subject to refund in Docket No. G-17698 (Louisiana severance tax increase). Also subject to Commission's order in Docket No. G-15968 (Louisiana gathering tax increase).

immediately prior to the date upon which the changed rate allowed by this order becomes effective, together with the differences in the revenues so computed.

(E) As provided in paragraph (C), within 20 days from the date of issuance of this order, Trahan shall execute and file in triplicate with the Secretary of this Commission the written agreement and undertaking to comply with the terms of paragraph (D) hereof, as follows:

*Agreement and Undertaking of J. C. Trahan (Operator) et al. To Comply With the Terms and Conditions of Paragraph (D) of Federal Power Commission's Order Making Effective Proposed Rate Change*

In conformity with the requirements of the order issued _____, 1959, in Docket No. G-18274, J. C. Trahan (Operator) et al., hereby agrees and undertakes to comply with the terms and conditions of paragraph (D) of said order, and for that purpose has caused this agreement and undertaking to be executed.

Date _____

Witness:

_____

Unless Trahan is advised to the contrary within 15 days after the date of filing such agreement and undertaking, the agreement and undertaking shall be deemed to have been accepted.

(F) If Trahan shall, in conformity with the terms and conditions of paragraph (D) of this order, make the refunds as may be required by order of the Commission, the undertaking shall be discharged; otherwise it shall remain in full force and effect.

(G) Neither the supplement hereby suspended nor the rate schedule sought to be altered thereby shall be changed until the period of suspension has expired, unless otherwise ordered by the Commission.

(H) Interested State commissions may participate as provided by §§ 1.8 and 1.37(f) of the Commission's rules of practice and procedure (18 CFR 1.8 and 1.37(f)).

By the Commission.

JOSEPH H. GUTRIDE,
*Secretary.*

[F.R. Doc. 59-3503; Filed, Apr. 24, 1959; 8:46 a.m.]

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[Docket No. G-17544 etc.]

## NEW YORK STATE GAS CORP. ET AL.

### Notice of Application, Consolidation, and Date of Hearing

APRIL 20, 1959.

In the matters of New York State Natural Gas Corporation and Home Gas Company, G-17544; Producers Gas Company, G-14975; Home Gas Company, G-15228.

Take notice that on January 15, 1959, supplemented on January 20, 1959, New York State Natural Gas Corporation (New York Natural) and Home Gas Company (Home) filed in Docket No. G-17544 a joint application, pursuant to section 7(c) of the Natural Gas Act, for a certificate of public convenience and necessity authorizing:

(1) The exchange of natural gas between the Applicants only during emergencies;

(2) Operation of an existing emergency inter-connection between the pipeline facilities of Home and Producers Gas Company (Producers) in the City of Olean, New York;

(3) The acquisition from Producers and operation by New York Natural of certain metering and regulating facilities at the aforesaid emergency interconnection between Home and Producers in Olean;

(4) The construction and operation by New York Natural of a gate valve to be placed at an existing point of connection of Home's system with the system of Southern Tier Gas Corporation (Southern Tier) in the Town of Cameron, Steuben County, New York, said valve and connection to be used only during emergencies; and

(5) The construction and operation of an emergency inter-connection between New York Natural and Home where their systems cross in the Town of Horseheads, Chemung County, New York.

The purpose of these proposals is to permit emergency exchange of gas between Home and New York Natural at their proposed Horseheads connection, and also to permit Home to deliver emergency gas to New York Natural for immediate redelivery to Producers and Southern Tier at the City of Olean and Town of Cameron connections when the latter require emergency gas. New York Natural would return this gas to Home at the Horseheads connection.

The proposed facilites at Horseheads are estimated to cost Home $1,827 and New York Natural $4,705. New York Natural's gate valve at the Home-Southern Tier connection is estimated to cost $200. New York Natural will pay Producers $4,900, the depreciated original cost of Producers' metering facilities at the Home-Producers connection. All costs are to be defrayed from cash on hand.

The foregoing proposed facilities and services will render moot the applications of Producers in Docket No. G-14975 and of Home in Docket No. G-15228.

These related matters should be heard on a consolidated record and disposed of as promptly as possible under the applicable rules and regulations and to that end:

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act, and the Commission's rules of practice and procedure, a hearing will be held on May 19, 1959, at 9:30 a.m., e.d.s.t., in a Hearing Room of the Federal Power Commission, 441 G Street NW., Washington, D.C., concerning the matters involved in and the issues presented by such applications: *Provided, however,* That the Commission may, after a non-contested hearing, dispose of the proceedings pursuant to the provisions of § 1.30(c) (1) or (2) of the Commission's rules of practice and procedure. Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington 25, D.C., in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before May 8, 1959. Failure of any party to appear at and participate in the hearing shall be construed as waiver of and concurrence in omission herein of the intermediate decision procedure in cases where a request therefor is made.

[SEAL] JOSEPH H. GUTRIDE,
*Secretary.*

[F.R. Doc. 59-3505; Filed, Apr. 24, 1959; 8:47 a.m.]

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# CIVIL AERONAUTICS BOARD

[Docket No. 9975]

## BRITISH OVERSEAS AIRWAYS CORP.

### Notice of Oral Argument

In the matter of the application of British Overseas Airways Corporation for amendment of its existing permit so as to extend its London-New York/San Francisco service to Honolulu-Wake-Tokyo and Hong Kong and issuance of a new permit to operate Hong Kong-Tokyo-Wake-Honolulu and San Francisco service.

Notice is hereby given, pursuant to the Federal Aviation Act of 1958, that oral argument in the above-entitled proceeding is assigned to be held on April 28, 1959, at 2:00 p.m., e.d.s.t., Room 1027, Universal Building, Connecticut and Florida Avenues NW., Washington, D.C., before the Board.

Dated at Washington, D.C., April 23, 1959.

[SEAL] FRANCIS W. BROWN,
*Chief Examiner.*

[F.R. Doc. 59-3584; Filed, Apr. 24, 1959; 9:34 a.m.]

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# INTERSTATE COMMERCE COMMISSION

[Notice 114]

## MOTOR CARRIER TRANSFER PROCEEDINGS

APRIL 22, 1959.

Synopses of orders entered pursuant to section 212(b) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 179), appear below:

As provided in the Commission's special rules of practice any interested person may file a petition seeking reconsideration of the following numbered proceedings within 20 days from the date of publication of this notice. Pursuant to section 17(8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by

petitioners must be specified in their petitions with particularity.

No. MC–FC 62069. By order of April 17, 1959, the Transfer Board approved the transfer to Cora Humm doing business as Humm Trucking Service, of Golconda, Ill., of Certificates Nos. MC 112028 and Sub 2, issued November 27, 1951 and July 10, 1957, respectively, in the name of Carl Humm and M. L. Conn, a partnership, doing business as H. & C. Transport, of Elizabethtown, Ill., authorizing the transportation of ore, over irregular routes, between points in Hardin and Pope Counties, Ill., on the one hand, and, on the other, points in Crittenden, Livingston, and Caldwell Counties, Ky., and between points in Hardin and Pope Counties (except Rosiclare), Ill., on the one hand, and, on the other, points in Marshall county, Ky. Mack Stephenson, 208 East Adams Street, Springfield, Ill., for M. L. Conn and J. D. Quarant of Elizabethtown, Ill., for transferee.

No. MC–FC 62129. By order of April 17, 1959, the Transfer Board approved the transfer to Lyle B. Bos of Hills, Minn., of Certificate No. MC 89931 issued December 7, 1951, to A. O. Skattum of Hills, Minn., authorizing the transportation, over irregular routes, of livestock, between Hills, Minn., and points in Minnesota, Iowa, and South Dakota, within 35 miles of Hills, on the one hand, and, on the other, Sioux Falls, S. Dak., and Sioux City, Iowa; feed, between Hills, Minn., and points within ten miles of Hills, on the one hand, and, on the other, Sioux Falls, S. Dak., and Sioux City, Iowa; household goods and emigrant movables, between Hills, Minn., and points in Minnesota, Iowa, and South Dakota within 35 miles of Hills, on the one hand, and, on the other, points in Minnesota, Iowa, and South Dakota; and farm machinery, from Sioux Falls, S. Dak., to Hills, Minn., and points within ten miles of Hills.

[SEAL] HAROLD D. McCOY, *Secretary.*

[F.R. Doc. 59–3512; Filed, Apr. 24, 1959; 8:48 a.m.]

## FOURTH-SECTION APPLICATIONS FOR RELIEF

APRIL 21, 1959.

Protests to the granting of an application must be prepared in accordance with Rule 40 of the general rules of practice (49 CFR 1.40) and filed within 15 days from the date of publication of this notice in the FEDERAL REGISTER.

LONG-AND-SHORT HAUL

FSA No. 35376: *Substituted service—CRI&PRR for Pacific Intermountain Express Co.* Filed by Middlewest Motor Freight Bureau, Agent (No. 149), for the Chicago, Rock Island Pacific Railroad Company and interested motor carriers. Rates on property loaded in trailers and transported on railroad flat cars between Denver, Colo., and Kansas City (Armourdale), Kans., on traffic destined to or originating at points on motor carriers in territories described in the application.

Grounds for relief: Motor truck competition.

Tariff: Supplement 97 to Middlewest Motor Freight Bureau tariff MF–I.C.C. 223.

FSA No. 35377: *Substituted service—CRI&P for Knaus Truck Lines, Inc., et al.* Filed by Middlewest Motor Freight Bureau, Agent (No. 150), for the Chicago, Rock Island and Pacific Railroad Company, and interested motor carriers. Rates on property loaded in trailers and transported on railroad flat cars between Chicago (Burr Oak), Ill., and Des Moines, Iowa, on traffic originating at or destined to points on motor lines in territories described in the application.

Grounds for relief: Motor truck competition.

Tariff: Supplement 97 to Middlewest Motor Freight Bureau tariff MF–I.C.C. 223.

FSA No. 35378: *Substituted service—C&NW Ry. for Buckingham Transportation, Inc.* Filed by Middlewest Motor Freight Bureau, Agent (No. 151), for the Chicago and North Western Railway Company and interested motor carriers. Rates on property loaded in highway trailers and transported on railroad flat cars between Chicago, Ill., and St. Paul, Minn., on traffic originating at or destined to points on motor carriers in territories described in the application.

Grounds for relief: Motor truck competition.

Tariff: Supplement 97 to Middlewest Motor Freight Bureau tariff MF–I.C.C. 223.

FSA No. 35379: *Substituted service—CRI&P for Knaus Truck Lines, Inc.* Filed by Middlewest Motor Freight Bureau, Agent (No. 152), for the Chicago, Rock Island and Pacific Railroad Company and interested motor carriers. Rates on property loaded in highway trailers and transported on railroad flat cars between Kansas City (Armourdale), Kans., and Des Moines, Iowa, on traffic originating at or destined to points in territories described in the application.

Grounds for relief: Motor truck competition.

Tariff: Supplement 97 to Middlewest Motor Freight Bureau tariff MF–I.C.C. 223.

FSA No. 35380: *Substituted service—M-K-T Lines for Yellow Transit.* Filed by Middlewest Motor Freight Bureau, Agent (No. 153), for Missouri-Kansas-Texas Railroad Company, and interested motor carriers. Rates on property loaded in highway trailers and transported on railroad flat cars between Kansas City, Kans., and St. Louis, Mo., on the one hand, and Denison or Waco, Tex., on the other, on traffic originating at or destined to points in territories described in the application.

Grounds for relief: Motor truck competition.

Tariff: Supplement 97 to Middlewest Motor Freight Bureau tariff MF–I.C.C. 223.

FSA No. 35381: *Fine coal to Port Wentworth and Savannah, Ga.* Filed by O. W. South, Jr., Agent (No. A3792), for interested rail carriers. Rates on fine coal, carloads from mines in Alabama, Illinois, Kentucky, Tennessee, and Virginia to Port Wentworth and Savannah, Ga.

Grounds for relief: Market competition at destinations with mines in other coal regions.

Tariff: Supplement 78 to Southern Freight Tariff Bureau tariff I.C.C. 1499 and other schedules listed in the application.

AGGREGATE-OF-INTERMEDIATES

FSA No. 35375: *Coarse grains from and to stations in Arkansas and Missouri.* Filed by Southwestern Freight Bureau, Agent (No. B–7530), for interested rail carriers. Rates on barley, corn (other than popcorn), shelled, milo maize, oats, rye, and soybeans, carloads between stations in Arkansas and Missouri, and between stations in Arkansas and Missouri, on the one hand, and Memphis, Tenn., on the other.

Grounds for relief: Maintenance of through one-factor rates from or to points beyond the described points not affected by the same competitive conditions.

Tariffs: Supplement 48 to Southwestern Freight Bureau tariff I.C.C. 4241 and other schedules referred to in the application.

By the Commission.

[SEAL] HAROLD D. McCOY, *Secretary.*

[F.R. Doc. 59–3467; Filed, Apr. 23, 1959; 8:48 a.m.]

# OFFICE OF CIVIL AND DEFENSE MOBILIZATION

## JOSEPH D. KEENAN

### Appointee's Statement of Business Interests

The following statement lists the names of concerns required by subsection 710(b)(6) of the Defense Production Act of 1950, as amended.

Bought: Universal Oil Processes. Crowell-Collier Publishing Co.
Sold: Drug Fair.

This amends statement published September 10, 1958 (23 F.R. 7015).

Dated: February 1, 1959.

JOSEPH D. KEENAN.

[F.R. Doc. 59–3490; Filed, Apr. 24, 1959; 8:45 a.m.]

# SECURITIES AND EXCHANGE COMMISSION

[File No. 1–2645]

## F. L. JACOBS CO.

### Order Summarily Suspending Trading

APRIL 21, 1959.

I. The common stock, $1.00 par value, of F. L. Jacobs Co. is registered on the New York Stock Exchange and admitted

to unlisted trading privileges on the Detroit Stock Exchange, national securities exchanges, and

II. The Commission on February 11, 1959 issued its order and notice of hearing under section 19(a)(2) of the Securities Exchange Act of 1934 to determine at a hearing beginning March 16, 1959, whether it is necessary or appropriate for the protection of investors to suspend for a period not exceeding twelve months, or to withdraw, the registration of the capital stock of F. L. Jacobs Co. on the New York Stock Exchange and Detroit Stock Exchange for failure to comply with section 13 of the Act and the rules and regulations thereunder.

On April 10, 1959, the Commission issued its order summarily suspending trading of said securities on the exchanges pursuant to section 19(a)(4) of the Act for the reasons set forth in said order to prevent fraudulent, deceptive or manipulative acts or practices for a period of ten days ending April 21, 1959.

III. The Commission being of the opinion that the public interest requires the summary suspension of trading in such security on the New York Stock Exchange and Detroit Stock Exchange and that such action is necessary and appropriate for the protection of investors; and

The Commission being of the further opinion that such suspension is necessary in order to prevent fraudulent, deceptive or manipulative acts or practices, trading in the stock of F. L. Jacobs Co. will be unlawful under section 15(c)(2) of the Securities Exchange Act of 1934 and the Commission's Rule 240.15c2-2 (17 CFR 240.15c2-2) thereunder for any broker or dealer to make use of the mails or of any means or instrumentality of interstate commerce to effect any transaction in, or to induce or attempt to induce the purchase or sale of such security, otherwise than on a national securities exchange.

*It is ordered,* Pursuant to section 19(a)(4) of the Securities Exchange Act of 1934 that trading in said security on the New York Stock Exchange and Detroit Stock Exchange be summarily suspended in order to prevent fraudulent, deceptive or manipulative acts or practices, this order to be effective for a period of ten (10) days, April 22, 1959, to May 1, 1959, inclusive.

By the Commission.

[SEAL] ORVAL L. DUBOIS,
*Secretary.*

[F.R. Doc. 59-3515; Filed, Apr. 24, 1959; 8:48 a.m.]

# CUMULATIVE CODIFICATION GUIDE—APRIL

A numerical list of the parts of the Code of Federal Regulations affected by documents published to date during April. Proposed rules, as opposed to final actions, are identified as such.